

# COMMONWEALTH of VIRGINIA

## Board of Education Agenda



**Date of Meeting:** September 22, 2004

**Time:** As Shown

**Location:** Conference Rooms C & D, James Monroe State Office Building  
101 North 14<sup>th</sup> Street, Richmond, Virginia

**9:00 a.m. FULL BOARD CONVENES**

**Moment of Silence**

**Pledge of Allegiance**

**Approval of Minutes of the July 21, 2004, Meeting of the Board**

**Resolutions/Recognitions**

- Recognition for Outstanding Service: Mrs. Ruby Rogers, Member of the Board of Education, 1998-2004, and Mrs. Susan Genovese, Member of the Board of Education, 2000-2004, and Vice President, 2002-2004.

**Public Comment**

**Consent Agenda**

- A. Final Review of Recommendations Concerning Release of Literary Fund Loans for Placement on Waiting List
- B. Final Review of Recommendations Concerning Applications for Literary Fund Loans
- C. Final Review of Financial Report on Literary Fund

**Action/Discussion on Board of Education Regulations**

- D. First Review of Notice of Intended Regulatory Action (NOIRA) to Promulgate Regulations Governing Re-enrollment Plans (8 VAC 20-660-10 et seq.)
- E. First Review of Proposed Technical Revisions to the Regulations Governing Procedures for Adjusting Grievances of School Personnel (8 VAC 20-90-10 et seq.)
- F. First Review of Emergency Regulations for Conducting Division-Level Academic Reviews (8 VAC 20-700-10 et seq.)

## **Action/Discussion Items**

- G. First Review of Proposed Revisions to the Standards of Quality (SOQ)
- H. Final Review of Proposed Revisions to the Board of Education's Bylaws Regarding Appointment and Operation of Advisory Committees
- I. Final Review of Proposed Modifications to the School-Level Academic Review Process
- J. First Review of a Request for Approval of an Alternative Accreditation Plan from the Fairfax County Public Schools
- K. First Review of Timeline for the Review and Approval of the Revised Computer/Technology Standards of Learning
- L. First Review of an Advisory Board on Teacher Education and Licensure (ABTEL) Recommendation to Establish ACT Scores as a Substitute Test for Praxis I
- M. First Review of a Recommendation to Establish Proficiency Levels for the American Council on the Teaching of Foreign Languages (ACTFL) Oral Proficiency Interview and the Writing Proficiency Test as Alternate Tests to the Modern Language Association (MLA) Proficiency Test for Teachers and Advanced Students
- N. First Review of Cut Scores for Praxis I Proposed by the Advisory Board on Teacher Education and Licensure (ABTEL) Based on the Re-Validation and Standard-Setting Study Conducted on July 22, 2004
- O. First Review of an Advisory Board on Teacher Education and Licensure (ABTEL) Recommendation Supporting a Proposed Cut-Score for the School Leaders Licensure Assessment (SLLA)
- P. First Review of Proposed Revisions to the Board of Education's Model Student Conduct Guidelines
- Q. First Review of Response to a Recommendation from the 2003 Student Advisory Committee Regarding Student Diversity

## **Reports**

- R. Annual Report of the State Special Education Advisory Committee
- S. Report on the Board of Education's Authority and Responsibility Under the Provisions Regarding Sanctions Contained in the *No Child Left Behind Act of 2001 (NCLB)*

**DISCUSSION OF CURRENT ISSUES** - by Board of Education Members and Superintendent of Public Instruction

## **ADJOURNMENT**

### **IMMEDIATELY FOLLOWING ADJOURNMENT:**

- T. Public Hearing on Proposed Regulations Governing Scoliosis Screening Programs (8 VAC 20-690-10 et seq.)

#### **PUBLIC NOTICE**

The Board of Education members will meet for dinner at 6:30 p.m. at the Crowne Plaza Hotel on Tuesday, September 21, 2004. Items for the Board agenda may be discussed informally at that dinner. No votes will be taken, and it is open to the public. The Board president reserves the right to change the times listed on this agenda depending upon the time constraints during the meeting.

#### **GUIDELINES FOR PUBLIC COMMENT**

1. The Board of Education is pleased to receive public comment at each of its regular monthly meetings. In order to allow the Board sufficient time for its other business, the total time allotted to public comment will generally be limited to thirty (30) minutes. Individuals seeking to speak to the Board will be allotted three (3) minutes each.
2. Those wishing to speak to the Board should contact Dr. Margaret Roberts, Executive Assistant for Board Relations at (804) 225-2924. Normally, speakers will be scheduled in the order that their requests are received until the entire allotted time slot has been used. Where issues involving a variety of views are presented before the Board, the Board reserves the right to allocate the time available so as to insure that the Board hears from different points of view on any particular issue.
3. Speakers are urged to contact Dr. Roberts in advance of the meeting. Because of time limitations, those persons who have not previously registered to speak prior to the day of the Board meeting cannot be assured that they will have an opportunity to appear before the Board.
4. In order to make the limited time available most effective, speakers are urged to provide multiple written copies of their comments or other material amplifying their views.

# Board of Education Agenda Item

Item: A

Date: September 22, 2004

**Topic:** Final Review of Recommendations Concerning Release of Literary Fund Loans for Placement on Waiting List

**Presenter:** Mr. Daniel S. Timberlake, Assistant Superintendent for Finance

**Telephone Number:** (804) 225-2025      **E-Mail Address:** dtimberl@mail.vak12ed.edu

## Origin:

       Topic presented for information only (no board action required)

X Board review required by

  X   State or federal law or regulation

       Board of Education regulation

       Other: \_\_\_\_\_

X Action requested at this meeting             Action requested at  
future meeting: \_\_\_\_\_ (date)

## Previous Review/Action:

X No previous board review/action

       Previous review/action

date \_\_\_\_\_

action \_\_\_\_\_

## Background Information:

The Literary Fund regulations of the Board establish two priorities for the Literary Fund Waiting lists. These priorities are summarized as follows:

Priority 1:      Applications from localities having a composite index less than 0.6000 and an indebtedness less than \$20 million to the Literary Fund (Attachment B).

Priority 2:      Applications from localities having a composite index of 0.6000 or above or an indebtedness of \$20 million or greater to the Literary Fund (Attachment C).

Attachment D is the Board of Education's current Approved Application List. This attachment identifies those Literary Fund applications that are approved as to form but are not included on either waiting list nor are they recommended for funding.

**Summary of Major Elements:**

To the extent funds are available, a recommendation for initial release of funds is presented for projects currently on the First Priority Waiting List or otherwise eligible for priority funding.

To the extent funds are not available, new requests for the initial release of Literary Funds cannot be approved. Thus, such requests must be deferred and placed on either the First or Second Priority Waiting List in accordance with the Literary Fund regulations.

Nelson County submitted a letter dated July 22, 2004, requesting that two projects (New Nelson Middle and Nelson High addition) be removed from the First Priority Waiting List. The school board has opted to use VPSA funding to finance these projects.

**Superintendent's Recommendation:**

No funds are available at this time to release loans for projects on the First Priority Waiting List (See Attachment A).

The Superintendent of Public Instruction recommends that funding for four projects in the amount of \$14,225,000 be deferred and the projects be placed on the First Priority Waiting List subject to review and approval by the Office of the Attorney General pursuant to Section 22.1-156, Code of Virginia (Attachment B).

The Superintendent of Public Instruction recommends that Nelson County's request to be removed from the First Priority Waiting List be approved.

**Impact on Resources:**

Current Board policy provides that, upon initial release of funds, Literary Fund cash is reduced in the total amount of the approved loan to assure that cash is available as required for project completion. The disbursement of funds is based on actual invoices or other evidence of bills due and payable from the Literary Fund.

**Timetable for Further Review/Action:**

The staff will prepare items for the Board on this subject as needed. Based on the availability of funds, initial release of funds will be made or projects will be deferred and placed on the Waiting List.

## RELEASE OF LITERARY FUNDS

It is recommended that Literary Funds be released for the following first priority projects:

Priority No.	County, City or Town	School	Interest Rate	Amount
<hr/>				

NONE

## BOARD OF EDUCATION - FIRST PRIORITY WAITING LIST

Attachment B

**It is recommended that initial release/commitment of Literary Funds be deferred for the following projects. Deferral is recommended because sufficient Literary Fund cash is not available at this time.**

Placed on Waiting List	Priority	County, City or Town	School	Interest Rate	Amount Deferred	Cumulative Total
September, 2004	56	Roanoke City	Patrick Henry High	3%	7,500,000	267,452,490
September, 2004	57	Roanoke City	Fallon Park Elementary	3%	1,600,000	269,052,490
September, 2004	58	Roanoke City	Westside Elementary	3%	3,100,000	272,152,490
September, 2004	59	Hanover County	Stonewall Jackson Middle	4%	2,025,000	274,177,490

**The initial release/commitment of Literary Funds for the following projects was deferred by the Board at its previous meetings, with a waiting list established as follows:**

Placed on Waiting List	Priority	County, City or Town	School	Interest Rate	Amount Deferred	Cumulative Total
March, 2003	1	Smyth County	North Middle/Rich Valley Elementary	2%	150,000	150,000
April, 2001	2	Augusta County	Wilson Middle	3%	7,500,000	7,650,000
September, 2001	3	Hanover County	New Hanover High School	4%	7,500,000	15,150,000
September, 2001	4	Nelson County *	New Nelson Middle	5%	7,500,000	22,650,000
September, 2001	5	Nelson County *	Nelson High Addition	5%	7,500,000	30,150,000
October, 2001	6	Patrick County	Hardin Reynolds Elementary	2%	403,000	30,553,000
January, 2002	7	Patrick County	Stuart Elementary	2%	110,669	30,663,669
January, 2002	8	Patrick County	Patrick High School	2%	1,000,000	31,663,669
February, 2002	9	Orange County	Locust Grove Middle	4%	7,500,000	39,163,669
February, 2002	10	Pittsylvania County	Chatham Middle	2%	7,500,000	46,663,669
February, 2002	11	Pittsylvania County	Dan River Middle	2%	5,000,000	51,663,669
February, 2002	12	Pittsylvania County	Tunstall Middle	2%	7,500,000	59,163,669
February, 2002	13	Nottoway County	Blackstone Primary	2%	307,000	59,470,669
February, 2002	14	Nottoway County	Crewe Primary	2%	1,223,780	60,694,449
March, 2002	15	Hopewell City	Carter G. Woodson Middle	2%	1,100,000	61,794,449
March, 2002	16	King William County	King William High	3%	7,500,000	69,294,449
March, 2002	17	Buckingham County	Buckingham Middle	2%	7,500,000	76,794,449
April, 2002	18	Shenandoah County	Strasburg High	3%	4,535,000	81,329,449
April, 2002	19	Shenandoah County	Stonewall Jackson High	3%	4,535,000	85,864,449

April, 2002	20	Shenandoah County	Central High	3%	4,535,000	90,399,449
April, 2002	21	Fluvanna County	Fluvanna High	3%	7,500,000	97,899,449
April, 2002	22	Orange County	Orange County High	4%	7,500,000	105,399,449
May, 2002	23	Amelia County	Amelia High	3%	2,500,000	107,899,449
May, 2002	24	Amelia County	Amelia Middle	3%	5,000,000	112,899,449
June, 2002	25	Prince George County	South Elementary	2%	5,911,575	118,811,024
June, 2002	26	Prince George County	Harrison Elementary	2%	7,044,000	125,855,024
July, 2002	27	Newport News City	General Stanford Elementary	2%	7,500,000	133,355,024
March, 2003	28	Salem City	Andrew Lewis Middle	4%	7,500,000	140,855,024
March, 2003	29	Franklin County	Windy Gap Elementary	3%	7,500,000	148,355,024
March, 2003	30	Lynchburg City	E. C. Glass High	3%	7,500,000	155,855,024
March, 2003	31	Lunenburg County	Lunenburg Middle	2%	7,500,000	163,355,024
June, 2003	32	King George County	King George Elementary	3%	7,500,000	170,855,024
June, 2003	33	Galax City	Galax Elementary	3%	2,000,000	172,855,024
June, 2003	34	Roanoke City	Lincoln Terrace Elementary	3%	1,300,000	174,155,024
June, 2003	35	Sussex County	Sussex Central Middle	3%	7,500,000	181,655,024
June, 2003	36	Floyd County	Check Elementary	3%	2,160,800	183,815,824
June, 2003	37	Floyd County	Floyd Elementary	3%	1,123,737	184,939,561
June, 2003	38	Floyd County	Indian Valley Elementary	3%	2,030,933	186,970,494
June, 2003	39	Floyd County	Willis Elementary	3%	1,820,531	188,791,025
June, 2003	40	Floyd County	Floyd High	3%	4,863,998	193,655,023
June, 2003	41	Alleghany County	Falling Springs Elementary	2%	2,000,000	195,655,023
June, 2003	42	Alleghany County	Callaghan Elementary	2%	1,000,000	196,655,023
June, 2003	43	Alleghany County	Sharon Elementary	2%	1,000,000	197,655,023
June, 2003	44	Stafford County	New Elementary 2004	3%	7,500,000	205,155,023
September, 2003	45	Patrick County	Blue Ridge Elementary	2%	725,000	205,880,023
February, 2004	46	Mecklenburg County	South Hill Elementary	3%	7,500,000	213,380,023
February, 2004	47	Manassas Park City	Manassas Park High	3%	7,000,000	220,380,023
February, 2004	48	Rockingham County	Montevideo Middle	3%	6,600,000	226,980,023
February, 2004	49	Rockingham County	Elkton Middle	3%	7,000,000	233,980,023
April, 2004	50	Patrick County	Woolwine Elementary	2%	367,000	234,347,023
April, 2004	51	Patrick County	Patrick County High	2%	1,205,467	235,552,490
April, 2004	52	New Kent County	New Kent Primary	4%	2,487,946	238,040,436
April, 2004	53	New Kent County	G. W. Watkins Elementary	4%	6,912,054	244,952,490
June, 2004	54	Page County	Page County High	2%	7,500,000	252,452,490
June, 2004	55	Page County	Luray High	2%	7,500,000	259,952,490

\* Nelson County has requested that their interest rate be reduced by 1% in accordance with 8 VAC 20-100-150 of the Literary Fund Regulations.  
This request cannot be considered until the Board of Education is ready to release funds for each project.

September, 2004



Board of Education  
Administration, Assessment and Finance Committee

Attachment C

SECOND PRIORITY WAITING LIST

It is recommended that initial release/commitment of Literary Funds be deferred for the following projects. Deferral is recommended because sufficient Literary Fund cash is not available at this time.

Placed on Waiting List	Priority	County, City or Town	School	Interest Rate	Amount Deferred	Cumulative Total
---------------------------	----------	-------------------------	--------	------------------	--------------------	---------------------

NONE

The initial release/commitment of Literary Funds for the following projects was deferred by the Board at its previous meetings, with a waiting list established as follows:

Placed on Waiting List	Priority	County, City or Town	School	Interest Rate	Amount Deferred	Cumulative Total
---------------------------	----------	-------------------------	--------	------------------	--------------------	---------------------

NONE

September, 2004

LITERARY FUND OF VIRGINIA  
APPROVED APPLICATION LIST

Attachment D

APPLICATION NUMBER	COUNTY, CITY OR TOWN	SCHOOL	APPLICATION AMOUNT	DATE OF APPROVAL BY BOARD OF EDUCATION
11095	Orange County	Orange Elementary	317,500	10/22/01
11094	Orange County	Lightfoot Elementary	123,000	10/22/01
11093	Orange County	Prospect Heights Middle	1,100,000	10/22/01
11092	Orange County	Unionville Elementary	135,000	10/22/01
11105	Pulaski County	Pulaski High School	1,200,000	2/5/02

\*Reflects only those applications not on waiting lists

September, 2004

# Board of Education Agenda Item

Item: B

Date: September 22, 2004

Topic: Final Review of Recommendations Concerning Applications for Literary Fund Loans

Presenter: Mr. Daniel S. Timberlake, Assistant Superintendent for Finance

Telephone Number: (804) 225-2025

E-Mail Address: dtimberl@mail.vak12ed.edu

## Origin:

☐ Topic presented for information only (no board action required)

☒ Board review required by

☒ State or federal law or regulation

☐ Board of Education regulation

☐ Other: \_\_\_\_\_

☒ Action requested at this meeting ☐ Action requested at future meeting: \_\_\_\_\_ (date)

## Previous Review/Action:

☒ No previous board review/action

☐ Previous review/action

date \_\_\_\_\_

action \_\_\_\_\_

## Background Information:

The recommendation for approval of the projects on Attachment A is in accordance with the Code of Virginia, Chapter 10, Section 22.1-146, which authorizes the Board of Education to make loans from the Literary Fund for the purpose of erecting, altering, or enlarging school buildings. Approval of an application constitutes the first step in a two-step process to secure a loan from the Literary Fund. The second step can occur only after Departmental receipt of final plans and specifications per Section 22.1-140 of the Code, coupled with a written request to the Department for release of funds, with the latter request also requiring Board approval.

## Summary of Major Elements

Attachment A reflects four applications that have been reviewed by the Department. These applications have met all of the Board's requirements necessary to be approved for a Literary Fund loan and are currently under review by the Office of the Attorney General.

**Superintendent's Recommendation:**

The Superintendent of Public Instruction recommends approval of four applications in the amount of \$14,225,000 subject to review and approval by the Office of the Attorney General pursuant to Section 22.1-156, Code of Virginia (Attachment A).

**Impact on Resources:**

There will be no impact on the resources of the Literary Fund until a locality receives approval from the Board of Education for the release of funds and construction commences on the approved project.

**Timetable for Further Review/Action:**

Recommendations similar to Attachment A will be presented to the Board on a quarterly basis as needed, if found in proper order after review by the Department and Office of the Attorney General staff.

BOARD OF EDUCATION  
APPROVAL OF APPLICATIONS

It is recommended that the following applications be approved subject to receipt of final plans (Section 22.1-140 of the Code) and availability of funds.

County, City or Town	School	Amount
Roanoke City	Patrick Henry High	7,500,000
Roanoke City	Fallon Park Elementary	1,600,000
Roanoke City	Westside Elementary	3,100,000
Hanover County	Stonewall Jackson Middle	2,025,000
		-----
		14,225,000

Renovations (Plans approved)

Renovations (Plans approved)

Addition (Plans approved)

Addition (Plans approved)

# Board of Education Agenda Item

Item: \_\_\_\_\_ C \_\_\_\_\_

Date: September 22, 2004

Topic: Final Review of Financial Report on Literary Fund

Presenter: Mr. Daniel S. Timberlake, Assistant Superintendent for Finance

Telephone Number: (804)225-2025

E-Mail Address: [dtimberl@mail.vak12ed.edu](mailto:dtimberl@mail.vak12ed.edu)

## Origin:

\_\_\_\_\_ Topic presented for information only (no board action required)

X Board review required by

X State or federal law or regulation

\_\_\_\_\_ Board of Education regulation

\_\_\_\_\_ Other: \_\_\_\_\_

X Action requested at this meeting \_\_\_\_\_ Action requested at future meeting: \_\_\_\_\_ (date)

## Previous Review/Action:

X No previous board review/action

\_\_\_\_\_ Previous review/action

date \_\_\_\_\_

action \_\_\_\_\_

## Background Information:

In accordance with the provisions of the Code of Virginia, Chapter 10, Section 22.1-142, the Board of Education is responsible for the management of the Literary Fund. This report reflects the status of the Literary Fund and the status of the Reserve Fund, which is in the custody of the Virginia Public School Authority (VPSA). The report also reflects the total principal of the fund, as well as cash, investments, and all short and long term loans in both funds.

## Summary of Major Elements

Attachment A reflects the financial position of the Literary Fund as of June 30, 2004. The information presented in this report reflects the commitments against the Literary Fund as of June 30, 2004.

Attachment B reflects the currently active projects as of June 30, 2004.

Attachment C represents a four-year income analysis of the Literary Fund.

**Superintendent's Recommendation:**

The Superintendent of Public Instruction recommends approval of the financial report (including all statements) on the status of the Literary Fund as of June 30, 2004.

**Impact on Resources:**

As funds become available in the Literary Fund, recommendations will be made to the Board for funding priority projects and those projects at the top of the First Priority Waiting List, with cash reduced as loan requests are processed.

**Timetable for Further Review/Action:**

The Department staff will prepare a quarterly financial report on this fund for Board approval. Information also will be presented each quarter, as part of another agenda item, regarding those projects on the two waiting lists.

BOARD OF EDUCATION  
STATEMENT OF THE FINANCIAL POSITION OF THE LITERARY FUND  
(as of June 2004)

Line Reference		June 30, 2004	May 31, 2004	Increase/ (Decrease)
	<b>PRINCIPAL BALANCE</b>			
1.	Cash and investments maintained by State Treasurer	86,928,633.00	47,302,187.00	39,626,446.00
2.	Loans received from local school boards (secured by promissory notes)	21,912,203.00	21,912,203.00	-
3.	Cash and investments in custody of Virginia Public School Authority (VPSA)	234,431.00	339,760.00	(105,329.00)
4.	Long-term loans in custody of Virginia Public School Authority (VPSA)	393,777,866.00	397,639,267.00	(3,861,401.00)
5.	Total Principal of Literary Fund	<b>502,853,133.00</b>	<b>467,193,417.00</b>	35,659,716.00
	<b>CURRENT COMMITMENTS AGAINST LITERARY FUND REVENUE</b>			
6.	Balance due on active projects (Attachment B)	8,974,138.39	8,974,138.39	-
7.	Debt service on VPSA equipment notes <sup>1</sup>	-	-	-
8.	Interest rate subsidy <sup>2</sup>	-	-	-
9.	Trigon Reserve	5,657,429.00	5,657,429.00	-
10.	Transfer for Teacher Retirement <sup>3</sup>	-	-	-
11.	Other Encumbrances held by Treasurer of Virginia	2,623,838.61	2,623,838.61	-
12.	Total of Literary Fund Commitments	<b>17,255,406.00</b>	<b>17,255,406.00</b>	-
	<b>FUNDS AVAILABLE FOR CURRENT COMMITMENTS AND NEW LOANS</b>			
13.	Cash and investments maintained by State Treasurer (Line 1)	86,928,633.00		
14.	Less commitments against Literary Fund Revenues (Line 12)	(17,255,406.00)		
15.	<b>Balance Available to Fund New Projects Currently on Waiting List - (Additional Funds Needed to Meet Commitments)</b>	69,673,227.00		

**NOTES:**

<sup>1</sup> Chapter 943 approved April 15, 2004, requires \$55,025,975 to be set aside for debt service on equipment notes. (Payment of \$3,320,586 made in October; payment of \$50,711,013 in April)

<sup>2</sup> Chapter 943 approved April 15, 2004, requires \$10,000,000 to be set aside for an interest rate subsidy program. (Actual cost of sale was \$2,921,438, which is now reflected in items reported on Line 6.)

<sup>3</sup> Chapter 943 approved April 15, 2004, requires \$118,454,700 to be transferred from the Literary Fund to pay teacher retirement in fiscal year 2004. (Payment of \$118,454,700 made in May)



## ACTIVE PROJECTS AS OF JUNE 30, 2004

Application Number	County, City or Town	School	Date of Release by Bd. of Educ.	Funds Released	Funds Disbursed	Balance Due
* 10975	Augusta County Clarke County	1999 Subsidy (Churchville Elem) Johnson Williams Middle	11/18/1999 9/28/2000	1,439,546.00 7,500,000.00	1,415,188.31 -	24,357.69 7,500,000.00
11058	Halifax County	Sydnor Jennings Elementary	6/20/2001	3,500,000.00	3,400,074.56	99,925.44
11111	Patrick County	Woolwine Elementary (2002 Subsidy)	11/7/2002	50,763.00	44,263.00	6,500.00
11105	Russell County	Honaker Elementary (2002 Subsidy)	11/7/2002	325,917.27	310,930.59	14,986.68
11071	Smyth County	Chilhowie Elementary	9/26/2001	2,593,511.00	2,208,496.00	385,015.00
11070	Smyth County	Chilhowie Middle/High	9/26/2001	2,238,759.00	2,110,622.00	128,137.00
11131	Stafford County	Stafford Elementary (2003 Subsidy)	11/30/2003	659,305.31	654,746.41	4,558.90
11034	Sussex County	Sussex Central High	9/28/2000	7,500,000.00	7,118,661.00	381,339.00
* 11096	Washington County Washington County	Rhea Valley Elem (2001 Subsidy) Abingdon High (2003 Subsidy)	11/26/2001 11/30/2003	168,673.00 34,942.97	23,741.38 10,234.00	144,931.62 24,708.97
11097	Washington County	John S. Battle High (2003 Subsidy)	11/30/2003	30,209.93	-	30,209.93
11098	Washington County	Holston High (2003 Subsidy)	11/30/2003	20,948.94	-	20,948.94
11099	Washington County	Patrick Henry High (2003 Subsidy)	11/30/2003	30,181.33	-	30,181.33
11100	Washington County	Valley Institute (2003 Subsidy)	11/30/2003	5,861.31	-	5,861.31
11078	Washington County	Wallace Middle	9/26/2001	439,704.00	439,616.00	88.00
11083	Washington County	Glade Spring Middle	9/26/2001	139,220.00	119,585.00	19,635.00
11063	Chesapeake City	Great Bridge Intermediate (2001 Subsidy)	9/26/2001	66,655.00	62,359.58	4,295.42
11062	Chesapeake City	Butts Road Intermediate (2001 Subsidy)	9/26/2001	85,594.00	47,074.71	38,519.29
11064	Chesapeake City	Greenbrier Intermediate (2001 Subsidy)	9/26/2001	85,594.00	45,824.17	39,769.83
10999	Franklin City	Franklin High School (1999 Subsidy)	11/18/1999	263,300.00	193,130.96	70,169.04
September, 2004				27,178,686.06	18,204,547.67	8,974,138.39

LITERARY FUND OF VIRGINIA  
INCOME ANALYSIS (2000-01 THRU 2003-04)

Attachment C

2000-01	Interest	Fines & Forfeitures	Unclaimed Property	Lottery Transfer	VPSA Transfer	Total
July	\$427,465	\$4,723,679	\$0	\$690,856	\$0	\$5,842,000
August	\$331,160	\$3,859,780	0	\$589,974	0	4,780,914
September	\$322,014	\$3,571,157	0	\$717,715	0	4,610,886
October	\$2,766,306	\$4,829,681	0	\$798,694	0	8,394,681
November	\$344,063	\$5,509,626	0	\$522,777	0	6,376,466
December	\$444,075	\$3,960,358	0	\$553,897	0	4,958,330
January	\$2,862,030	\$3,579,956	0	\$925,708	41,679,696	49,047,390
February	\$560,191	\$4,020,139	0	\$596,720	0	5,177,050
March	\$524,054	\$4,243,325	0	\$680,983	0	5,448,362
April	\$3,657,827	\$4,243,262	0	\$479,736	0	8,380,825
May	\$393,512	\$3,962,830	0	\$0	0	4,356,342
June	\$3,888,533	\$8,829,797	40,300,000	\$1,595,579	0	54,613,909
	\$16,521,230	\$55,333,590	\$40,300,000	\$8,152,639	\$41,679,696	\$161,987,155
2001-02	Interest	Fines & Forfeitures	Unclaimed Property	Lottery Transfer	VPSA Transfer	Total
July	\$265,316	\$1,295	\$0	\$0	\$0	\$266,611
August	\$331,643	\$3,556,095	0	\$758,931	0	4,646,669
September	\$408,149	\$4,878,105	0	\$583,855	0	5,870,109
October	\$2,996,437	\$3,981,143	0	\$677,056	0	7,654,636
November	\$501,696	\$4,573,739	0	\$834,774	0	5,910,209
December	\$482,370	\$3,734,344	0	\$651,257	0	4,867,971
January	\$3,595,592	\$3,195,432	0	\$653,929	44,818,038	52,262,991
February	\$435,729	\$4,083,598	25,000,000	\$816,568	0	30,335,895
March	\$434,506	\$4,014,940	0	\$1,007,249	0	5,456,695
April	\$3,919,410	\$4,193,645	0	\$1,189,912	0	9,302,967
May	\$2,049,750	\$3,848,000	0	\$750,000	0	6,647,750
June	\$2,049,750	\$3,848,000	12,100,000	\$750,000	0	18,747,750
	\$17,470,348	\$43,908,336	\$37,100,000	\$8,673,531	\$44,818,038	\$151,970,253
2002-03	Interest	Fines & Forfeitures	Unclaimed Property	Lottery Transfer	VPSA Transfer	Total
July	\$335,562	\$0	\$0	\$0	\$0	\$335,562
August	\$393,014	\$4,206,398	0	\$1,020,393	0	5,619,805
September	\$604,196	\$4,021,573	0	\$578,775	0	5,204,544
October	\$1,510,810	\$4,425,113	0	\$1,044,794	0	6,980,717
November	\$377,820	\$4,515,153	0	\$664,449	0	5,557,422
December	\$273,541	\$3,299,144	0	\$436,899	0	4,009,584
January	\$2,157,923	\$3,387,862	0	\$647,278	48,455,163	54,648,226
February	\$354,322	\$4,703,278	30,000,000	\$635,618	0	35,693,218
March	\$375,106	\$4,038,001	0	\$659,630	0	5,072,737
April	\$2,308,339	\$4,263,825	0	\$703,270	0	7,275,434
May	\$533,012	\$4,278,760	0	\$0	0	4,811,772
June	\$2,919,696	\$8,429,766	14,000,000	\$5,913,477	0	31,262,939
	\$12,143,341	\$49,568,873	\$44,000,000	\$12,304,583	\$48,455,163	\$166,471,960

LITERARY FUND OF VIRGINIA  
INCOME ANALYSIS (2000-01 THRU 2003-04)

Attachment C (Continued)

2003-04	Interest	Fines & Forfeitures	Unclaimed Property	Lottery Transfer	VP&A Transfer	Total
July	\$7,560	\$0	\$0	\$0	\$0	\$7,560
August	\$401,611	\$4,218,866	0	\$0	0	4,620,477
September	\$388,489	\$4,193,908	0	\$708,102	0	5,290,499
October	\$953,432	\$4,193,773	0	\$1,464,273	0	6,611,478
November	\$430,922	\$7,370,275	0	\$614,751	0	8,415,948
December	\$331,088	\$7,925,364	0	\$979,623	0	9,236,075
January	\$1,091,268	\$5,970,204	0	\$588,093	50,494,673	58,144,238
February	\$409,446	\$5,021,910	0	\$0	0	5,431,356
March	\$502,894	\$4,577,460	30,000,000	\$1,635,305	0	36,715,659
April	\$1,660,228	\$5,482,738	0	\$739,989	0	7,882,955
May	\$2,181,071	\$4,840,637	0	\$3,280,587	16,803,247	27,105,542
June	\$5,501,604	\$10,044,075	20,000,000	\$3,024,259	1,056,509	39,626,447
	\$13,859,613	\$63,839,210	\$50,000,000	\$13,034,982	\$68,354,429	\$209,088,234



# Board of Education Agenda Item

Item: D

Date: September 22, 2004

**Topic:** First Review of Notice of Intended Regulatory Action (NOIRA) to Promulgate Regulations Governing Re-enrollment Plans (8 VAC 20-660-10 et seq.)

**Presenter:** Dr. Cynthia A. Cave, Director , Office of Student Services

**Telephone Number:** 804-225-2818

**E-Mail Address:** ccave@mail.vak12ed.edu

## Origin:

☐ Topic presented for information only (no board action required)

☐ Board review required by

☒ State or federal law or regulation

☐ Board of Education regulation

☐ Other: \_\_\_\_\_

☒ Action requested at this meeting ☐ Action requested at future meeting: \_\_\_\_\_ (date)

## Previous Review/Action:

☐ No previous board review/action

☐ Previous review/action

date \_\_\_\_\_

action \_\_\_\_\_

## Background Information:

Section 22.1-17.1 of the Code establishes the responsibility of the Board of Education to promulgate regulations for the re-enrollment of children who have been in the custody of the Department of Juvenile Justice (DJJ) into the public schools as follows:

§ 22.1-17.1. Regulations for reenrollment.

The Board of Education, in cooperation with the Board of Correctional Education, shall promulgate regulations for the reenrollment in the public schools of children who have been in the custody of the Department of Juvenile Justice. Such regulations shall include the components required in a reenrollment plan and shall provide for consistency in the curricula, standards and policies between the educational programs required by this title, and those of the Board of Correctional Education.

The re-enrollment plan's purpose is to facilitate sharing of information about a student's record and the planning for placement in public schools upon release from correctional facilities, in order that educational services continue without disruption. Preparation of the re-enrollment plan relies on communication and information-

sharing among school divisions, DJJ juvenile correctional and court services units, and the Department of Correctional Education (DCE) juvenile schools (§ 16.1-293 and § 22.1-17.1 of the Code).

Subsequent to the enactment of § 22.1-17.1, the Departments of Education, Correctional Education, and Juvenile Justice developed model re-enrollment procedures and provided statewide training on re-enrollment planning. In 2000, the Department of Criminal Justice Services (DCJS) funded an evaluation of the re-enrollment process and plan by the College of William and Mary. The study included a survey of persons involved in implementation of the model plan procedures, focus groups, and interviews with parents. Recommendations from the evaluation included the need for revisions to procedures and additional staff training on the re-enrollment planning process. An interagency planning committee with representatives from DOE, DCE, DJJ, and school divisions revised the re-enrollment planning procedures and trained school divisions staff, DCE guidance counselors, transition specialists, and probation/parole officers in 2003.

The evaluation of the process provided information that was used by an interagency committee with representatives from DCE, DJJ, DOE, and school divisions in the drafting of regulations that were brought before the Board of Education in 2002. The draft regulations were authorized by the Board of Education for continuation in the promulgation requirements of the Administrative Process Act. However, the required review process was not completed within the necessary time period, and the regulations could not be brought before the Board of Education for final adoption.

### **Summary of Major Elements:**

The Board of Education is to work in cooperation with the Board of Correctional Education to promulgate regulations for re-enrollment in the public schools of children who have been in the custody of the Department of Juvenile Justice. The purpose of these regulations is to facilitate the continuance of educational services.

### **Superintendent's Recommendation:**

The Superintendent of Public Instruction recommends that the Board of Education waive first review and authorize the Department of Education staff to proceed with the NOIRA for the regulations.

### **Impact on Resources:**

None

### **Timetable for Further Review/Action:**

The timelines of the Administrative Process Act will be followed.



**Virginia  
Regulatory  
Town Hall**

[townhall.state.va.us](http://townhall.state.va.us)

## Notice of Intended Regulatory Action (NOIRA) Agency Background Document

<b>Agency name</b>	20
<b>Virginia Administrative Code (VAC) citation</b>	20
<b>Regulation title</b>	Re-enrollment in Public Schools of Children in the Custody of the Department of Juvenile Justice.
<b>Action title</b>	New regulation for re-enrollment planning
<b>Document preparation date</b>	September, 2004

This information is required for executive review ([www.townhall.state.va.us/dpbpages/apaintro.htm#execreview](http://www.townhall.state.va.us/dpbpages/apaintro.htm#execreview)) and the Virginia Registrar of Regulations ([legis.state.va.us/codecomm/register/regindex.htm](http://legis.state.va.us/codecomm/register/regindex.htm)), pursuant to the Virginia Administrative Process Act ([www.townhall.state.va.us/dpbpages/dpb\\_apa.htm](http://www.townhall.state.va.us/dpbpages/dpb_apa.htm)), Executive Orders 21 (2002) and 58 (1999) ([www.governor.state.va.us/Press\\_Policy/Executive\\_Orders/EOHome.html](http://www.governor.state.va.us/Press_Policy/Executive_Orders/EOHome.html)), and the *Virginia Register Form, Style, and Procedure Manual* ([http://legis.state.va.us/codecomm/register/download/styl8\\_95.rtf](http://legis.state.va.us/codecomm/register/download/styl8_95.rtf)).

### Purpose

*Please describe the subject matter and intent of the planned regulatory action. Also include a brief explanation of the need for and the goals of the new or amended regulation.*

The purpose of the proposed regulatory action is to implement the Code of Virginia § 22.1-17.1, which directs the Board of Education, in cooperation with the Board of Correctional Education, to promulgate regulations for the re-enrollment in the public schools of children who have been in the custody of the Department of Juvenile Justice. The re-enrollment plan facilitates the sharing of critical student educational information among school divisions and the Department of Correctional Education prior to release from a juvenile correctional center.

### Legal basis

*Please identify the state and/or federal source of legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly bill and chapter numbers, if applicable, and (2) promulgating entity, i.e., the agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.*

## Authority:

COV § 22.1-17.1 The Board of Education, in cooperation with the Board of Correctional Education, shall promulgate regulations for the re-enrollment in the public school of children who have been in custody of the Department of Juvenile Justice. Such regulations shall include the components required in a re-enrollment plan and shall provide for consistency in the curricula, standards and policies between educational programs required by this title, and those of the Board of Correctional Education.

COV § 22.1-343.5 The Board of Correctional Education shall have the following powers and duties: To promulgate regulations, in cooperation with the Board of Education, for the re-enrollment in the public schools of students who have been in the custody of the Department of Juvenile Justice.

COV § 16.1-293 The local supervising agency, with the assistance of representatives of the Department of Correctional Education, the relevant local school division, and the juvenile correctional center counselor, shall develop a re-enrollment plan in accordance with § 22.1-1-17.1, for each child of compulsory school attendance age, or a child with disabilities who has been identified as eligible for special education pursuant to § 22.1-213. Prior to the juvenile's discharge from a juvenile correctional center, the re-enrollment plan shall be made final and the school board of the local school division in which the juvenile shall be enrolled, shall determine the appropriate alternative education placement for such juvenile.

A re-enrollment plan must be completed by court service staff for each juvenile committed to the Department of Juvenile Justice. In accordance with COV § 16.1-293, the student's probation officer will, within 48 hours of commitment, send a request for information to the local school division where the student was last enrolled.

The local school division shall identify a court-school liaison. Local court service unit probation officers shall forward the request for information to this person. The local school division will complete a portion of the re-enrollment form and forward the student's scholastic records to the Reception and Diagnostic Center of the Department of Correctional Education within five (5) days of receipt.

The Department of Juvenile Justice shall inform the school division of a juvenile's return to the community from commitment at least 14 days prior to release. The local school board and the local school superintendent are the final authorities on the student's public school enrollment, placement, and re-enrollment.

## Substance

*Please detail any changes that will be proposed. For new regulations, include a summary of the proposed regulatory action. Where provisions of an existing regulation are being amended, explain how the existing regulation will be changed. Include the specific reasons why the regulation is essential to protect the health, safety, or welfare of citizens. Delineate any potential issues that may need to be addressed as the regulation is developed.*

The Board of Education is charged with promulgating regulations for the re-enrollment into the public schools of children who have been in the custody of the Department of Juvenile Justice (COV § 22.1-17.1).

The General Assembly established the requirement for regulations in response to a study regarding the transfer of students between public schools, detention homes and juvenile correctional centers. This study recommended establishment of a re-enrollment plan to share information about the student's public



and correctional education and to facilitate the student's re-enrollment in public schools upon release from commitment.

The Departments of Education, Correctional Education, and Juvenile Justice have developed a model re-enrollment plan and provided state-wide training on that plan. Faculty at the College of William and Mary, under a grant from the Department of Criminal Justice Services, completed a study of the re-enrollment plan and process which informed the revision of the planning procedures and will also inform the drafting of the regulations.

## Alternatives

*Please describe all viable alternatives to the proposed regulatory action that have been or will be considered to meet the essential purpose of the action.*

---

There are no specific alternatives to the proposal; however, an interagency committee, consisting of representatives from the Department of Correctional Education, Department of Juvenile Justice, Department of Education and the local school divisions, was established to revise the existing re-enrollment plan and to inform promulgation of the regulations.

## Family impact

*Assess the potential impact of the proposed regulatory action on the institution of the family and family stability. These regulations would support the planned transition of a juvenile from the correctional education system back to the public school education system. The regulations should provide guidance to the participating agencies, students, and the families of students. Families would have a reference for the planning and coordination that should take place as part of the re-enrollment process.*

---

The regulation will have a positive impact on the family since they address the continuance of the education of a child upon release from a juvenile correctional center. It would strengthen the rights of parents in regards to the continuation of educational opportunities for their children upon release.

Parents have been faced with the challenges of enrollment difficulties due to records not being received by either the receiving school division or the correctional center. This circumstance would often delay students from receiving the appropriate educational services in the public school. It is crucial that students are involved in an appropriate educational program while in the correctional center, and upon release. The incidence of recidivism becomes greater when enrollment is not available soon after release.

The regulation would provide for the exchange of educational information from the court services to the school division to the correctional centers. By having information in a timely manner, correctional centers would be able to provide appropriate educational services. The re-enrollment plan would provide the local school division with educational records so that informed decisions regarding placement and enrollment of the student would be made prior to release.

# Board of Education Agenda Item

Item: E

Date: September 22, 2004

**Topic:** First Review of Proposed Technical Revisions to the Regulations Governing Procedures for Adjusting Grievances of School Personnel (8 VAC 20-90-10 et seq.)

**Presenter:** Dr. Thomas A. Elliott, Assistant Superintendent for Teacher Education and Licensure

**Telephone Number:** (804) 371-2522

**E-Mail Address:** telliott@mail.vak12ed.edu

## Origin:

☐ Topic presented for information only (no board action required)

☒ Board review required by  
☒ State or federal law or regulation  
☐ Board of Education regulation  
☐ Other: \_\_\_\_\_

☐ Action requested at this meeting ☒ Action requested at future meeting: 10-28-04 (date)

## Previous Review/Action:

☐ No previous board review/action

☐ Previous review/action  
date \_\_\_\_\_  
action \_\_\_\_\_

## Background Information:

The Virginia Board of Education regulations, the Procedure for Adjusting Grievances (8 VAC 20-90-10 et seq.) have been reviewed. Based on this review, revisions are needed to align the regulations with changes in the Code of Virginia. All revisions, except for a few citation references, are exact language changes from the Code.

The Administrative Process Act (Section 2.2-4006 of the Code of Virginia) exempts changes to regulations that are necessary to conform to changes in Virginia statutory law where no agency discretion is involved from its requirements.

## Summary of Major Elements:

The revised Procedure for Adjusting Grievances is attached. New language is underlined and deleted language is noted with strikeouts. Also attached is a chart highlighting the revisions and the Code reference for each change.

The changes were made to align the regulations with the Code of Virginia; therefore, the regulations should be exempted from the public participation process of the Administrative Process Act. Upon approval of the regulations by the Board of Education, the Department of Education will request that the regulations be published in the *Virginia Register of Regulations* in final form.

The Code of Virginia requires that the Board of Education prescribe forms used in the grievance procedure. The forms are not incorporated in the regulations; however, the “Notification: Notice of Proposed Dismissal or Proposed Placing on Probation” form needs revision requiring approval by the board.

**Superintendent's Recommendation:**

The Superintendent of Public Instruction recommends that the Board of Education accept the proposed Regulations Governing Procedures for Adjusting Grievances of School Personnel for first review.

**Impact on Resources:** The amendment of the regulation as proposed is not expected to have a fiscal and administrative impact on school divisions or on the Department of Education.

**Timetable for Further Review/Action:**

It is anticipated that this item will be placed on the Board of Education's October 28, 2004, agenda for final review. Following the final approval of the proposed amendment of the regulation by the board, the regulation will be submitted to the Attorney General for authorization. Following receipt of the authorization, it will be submitted to the Registrar's Office for publication.

---

*VIRGINIA BOARD OF EDUCATION  
REGULATIONS*

# PROCEDURE FOR ADJUSTING GRIEVANCES

8 VAC 20-90-10 et seq.

---

# REVISIONS TO THE PROCEDURE FOR ADJUSTING GRIEVANCES

## 8 VAC 20-90-10 et seq.

Revisions in the Procedure for Adjusting Grievances	Rationale for Revision
<p style="text-align: center;"><i>8 VAC 20-90-10 et seq.</i></p> <p>The term “working day” was replaced with “business day” throughout the regulations to comport with the language of the Code.</p>	<p>Exact language change From the <u>Code of Virginia</u> § 22.1-312, N.</p>
<p style="text-align: center;"><i>8 VAC 20-90-30, B</i></p> <p>The principal may forward to the teacher within five days from the receipt of the written grievance a written request for more specific information regarding the grievance. The teacher shall file an answer <del>to that</del> <u>thereto</u> within 10 <del>working</del> <u>business</u> days, and the meeting must then be held within five <u>business</u> days after <del>that</del> <u>thereafter</u>.</p>	<p>Editorial Revision (no substantive change)</p>
<p><b>8 VAC 20-90-30, D, 2</b>  <b>Selection of Impartial Third Member.</b> In the event that both panel members are unable to agree upon a third panel member within five <del>working</del> <u>business</u> days, both members of the panel shall request the chief judge of the circuit court having jurisdiction of the school division to furnish a list of five qualified and impartial individuals from which one individual shall be selected by the two members of the panel to serve as the third member. The individuals named by the chief judge may reside either within or outside the jurisdiction of the circuit court, be residents of the Commonwealth of Virginia, and <u>in all cases shall</u> possess some knowledge and expertise in public education and education law and shall be deemed by the judge to be capable of presiding over an administrative hearing. Within five <u>business</u> days after receipt by the two panel members of the list of fact finders nominated by the chief judge, the panel members shall meet to select the third panel member. Selection shall be made by alternately deleting names from the list until only one remains. The panel member selected by the teacher shall make the first deletion. The third impartial panel member shall chair the panel. No elected official shall serve as a panel member. <u>Panel members shall not be parties to, or witnesses to, the matter grieved. With the agreement of the teacher's and division superintendent's panel members, the impartial panel member shall have the authority to conduct the hearing and make recommendations as set forth herein while acting as a hearing officer.</u></p> <p><u>The Attorney General shall represent personally or through one of his assistants any third impartial panel member who shall be made a defendant in any civil action arising out of any matter connected with his duties as a panel member. If, in the opinion of the Attorney General, it is impracticable or uneconomical for such legal representation to be rendered by him or one of his assistants, he may employ special counsel for this purpose, whose compensation shall be fixed by the Attorney General and be paid out of the funds appropriated for the administration of the Department of Education.</u></p>	<p>Exact language change From the <u>Code of Virginia</u> § 22.1-312, A.</p>

<p><b>8 VAC 20-90-30, D, 3</b>  3. <b>Holding of Hearing.</b> The hearing shall be held by the panel within 30 <del>calendar</del> business days from the date of selection of the final panel member. The panel shall set the date, place, and time for the hearing and shall so notify the division superintendent and the teacher. The teacher and the division superintendent each may have present at the hearing and be represented at all stages by a representative or legal counsel.</p>	<p>Exact language change  From the  <u>Code of Virginia</u>  <del>§22.1-308,4</del>  § 22.1-312, A.</p>
<p><b>8 VAC 20-90-30, D, 4, b &amp; c</b>  b. The panel may ask, <u>at the beginning of the hearing</u>, for statements from the division superintendent and the teacher clarifying the issues involved. <del>at the beginning of the hearing and at the discretion of the panel may allow closing statements.</del>  c. The parties shall then present their claims <del>in</del> and evidence. Witnesses may be questioned by the panel members, <del>or by</del> the teacher and the division superintendent. <del>or their representative.</del> The panel <u>may, in at its discretion, may</u> vary this procedure, but shall afford full <u>and</u> equal opportunity <del>for to</del> all parties to present any material or relevant evidence and shall afford the parties the right of cross-examination.</p>	<p>Exact language change  From the  <u>Code of Virginia</u>  § 22.1-312, D.</p>
<p><b>8 VAC 20-90-30, D, 4, d</b>  d. The parties shall produce such additional evidence as the panel may deem necessary to an understanding and determination of the dispute. The panel <del>may</del> <u>shall</u> be the judge of the relevancy and materiality of the evidence offered. All evidence shall be taken in the presence of the panel and of the parties</p>	<p>Exact language change  From the  <u>Code of Virginia</u>  § 22.1-312, D.</p>
<p><b>8 VAC 20-90-30, D, 4, f&amp;g</b>  f. The <del>finding of facts</del> <u>facts found</u> and recommendations <u>made</u> by the panel shall be <del>based exclusively upon the evidence presented at the hearing and the panel's recommendations shall be</del> arrived at by a majority vote of the panel members.  g. <del>On its own motion or upon application of the teacher or division superintendent, t</del> The hearing may be reopened by the panel, <u>on its own motion or upon application of the teacher or the division superintendent</u> for good cause shown, <del>at any time to hear after-discovered evidence at any time before its final report is delivered</del> <u>the panel's report is made.</u></p>	<p>Exact language change  From the  <u>Code of Virginia</u>  § 22.1-312, F.    Exact language change  From the  <u>Code of Virginia</u>  § 22.1-312, G.</p>
<p><b>8 VAC 20-90-30, D, 4, h.</b>  The panel shall make a written report that shall include its findings of fact and recommendations and shall file it with the members of the school board, the division superintendent, and the teacher, not later than 30 <u>business</u> days after the completion of the hearing.</p>	<p>Exact language change  From the  <u>Code of Virginia</u>  § 22.1-312, H.</p>

<p><b>8 VAC 20-90-30, D, 4, i &amp; j</b></p> <p>i. A stenographic record or tape recording <u>of the proceedings</u> shall be taken <del>of the proceedings</del>. <u>However, in proceedings concerning grievances not related to dismissal or probation</u>, the recording may be dispensed with entirely by mutual consent of the parties. <u>In such proceedings</u>, <del>if</del> the recording is not dispensed with, the two parties shall share equally the cost of the recording. If either party requests a transcript, that party shall bear the expense <del>involved in preparing it of its preparation</del>.</p> <p><u>In cases of dismissal or probation, a record or recording of the proceedings shall be made and preserved for a period of six months. If either the teacher or the school board requests that a transcript of the record or recording be made at any time prior to expiration of the six-month period, it shall be made and copies shall be furnished to both parties. The school board shall bear the expense of the recording and the transcription.</u></p> <p>j. <u>The recommendations and findings of fact of the panel submitted to the school board shall be based exclusively upon the evidence presented to the panel at the hearing. No panel member shall conduct an independent investigation involving the matter grieved.</u></p>	<p>Exact language change From the <u>Code of Virginia</u> § 22.1-312, I.</p> <p>Exact language change From the <u>Code of Virginia</u> § 22.1-312, L.</p>
<p><b>8 VAC 20-90-30, D, 5, a</b></p> <p>a. The teacher shall bear his <u>or her</u> own expenses. The school board shall bear the expenses of the division superintendent. The expenses of the panel shall be borne one half by the school board and one half by the teacher.</p>	<p>Exact language change From the <u>Code of Virginia</u> § 22.1-312, J.</p>
<p><b>8 VAC 20-90-30, E, 2</b></p> <p>2. In the case of a hearing before a fact-finding panel, the school board shall give the grievant its written decision within 30 days after the school board receives both the transcript of such hearing, if any, and the panel's finding of fact and recommendations unless the school board proceeds to a hearing under <del>§2.2 Subsection E.3</del> <u>Subdivision E.3 of this section</u>. The decision of the school board shall be reached after considering the transcript, if any; the findings of fact and recommendations of the panel; and such further evidence as the school board may receive at any further hearing that the school board elects to conduct.</p>	<p>Editorial Revision To locate referenced citation (no substantive change)</p>
<p><b>8 VAC 20-90-30, E, 3, a</b></p> <p>3. In any case in which a hearing before a fact-finding panel is held in accordance with Step 4, the local school board may conduct a further hearing before such school board.</p> <p>a. The local school board shall initiate such hearing by sending written notice of its intention to the teacher and the division superintendent within 10 <u>business</u> days after receipt by the board of the findings of fact and recommendations of the fact-finding panel and any transcript of the panel hearing. Such notice shall be provided upon forms to be prescribed by the Board of Education and shall specify each matter to be inquired into by the school board.</p>	<p>Exact language change From the <u>Code of Virginia</u> § 22.1-313, D.</p>

<p><b>8 VAC 20-90-30, E, 3, c</b>  A stenographic record or tape recording of the proceedings shall be taken. However, <u>in proceedings concerning grievances not related to dismissal or Probation</u>, the recording may be dispensed with entirely by mutual consent of the parties. <u>In such proceedings, if the recording is not dispensed with</u>, the two parties shall share the cost of the recording equally; if either party requests a transcript, that party shall bear the expense of its preparation.</p> <p><u>In the case of dismissal or probation, a record or recording of the proceedings shall be made and preserved for a period of six months. If either the teacher or the school board requests that a transcript of the record or recording be made at any time prior to expiration of the six-month period, it shall be made and copies shall be furnished to both parties. The school board shall bear the expense of the recording and the transcription.</u></p>	<p>Exact language change  From the  <u>Code of Virginia</u>  § 22.1-312, I.</p>
<p><b>8 VAC 20-90-40, A</b>  <b>A. Initial Determination of Grievability.</b> Decisions regarding whether a matter is grievable shall be made by the school board at the request of the division superintendent or grievant. The school board shall reach its decision only after allowing the division superintendent and the grievant opportunity to present written or oral arguments regarding grievability. The decision as to whether the arguments shall be written or oral shall be in the discretion of the school board. Decisions shall be made within 10 <u>business</u> days of such request. Such determination of grievability shall be made subsequent to the reduction of the grievance to writing but prior to any panel or board hearing or the right to such determination shall be deemed to have been waived. Failure of the school board to make such a determination within such a prescribed 10-<u>business</u> day period shall</p>	<p>Exact language change  From the  <u>Code of Virginia</u>  § 22.1-314</p>
<p><b>8 VAC 20-90-40, B, 1, a, b, &amp; c</b>  a. Proceedings for a review of the decision of the school board shall be instituted by filing a notice of appeal with the school board within 10 <u>business</u> days after the date of the decision and giving a copy thereof to all other parties.</p> <p>b. Within 10 <u>business</u> days thereafter, the school board shall transmit to the clerk of the court to which the appeal is taken a copy of its decision, a copy of the notice of appeal and the exhibits. The failure of the school board to transmit the record within the time allowed shall not prejudice the rights of the grievant. The court, on motion of the grievant, may issue a writ of certiorari requiring the school board to transmit the record on or before a certain date.</p> <p>c. Within 10 <u>business</u> days of receipt by the clerk of such record, the court, sitting without a jury, shall hear the appeal on the record transmitted by the school board and such additional evidence as may be necessary to resolve any controversy as to the correctness of the record. The court, in its discretion, may receive such other evidence as the ends of justice require.</p>	<p>Exact language change  From the  <u>Code of Virginia</u>  § 22.1-314</p>



<p><b>8 VAC 20-90-70, A, 3</b></p> <p>3. At the request of the teacher, the superintendent shall provide the reasons for the recommendation in writing or, if the teacher prefers, in a personal interview. In the event a teacher requests a hearing pursuant to §22.1-311 or §22.1-312, the division superintendent shall provide, within 10 days of the request, the teacher or his representative with the opportunity to inspect and copy his personnel file and all other documents relied upon in reaching the decision to recommend dismissal or probation. Within 10 days of the request of the division superintendent, the teacher or his representative shall provide the division superintendent with the opportunity to inspect and copy the documents to be offered in rebuttal to the decision to recommend dismissal or probation. <u>The division superintendent and the teacher or his representative shall be under a continuing duty to disclose and produce any additional documents identified later which may be used in the respective parties' cases -in-chief.</u> The cost of copying such documents shall be paid by the requesting party.</p>	<p>Exact language change From the <u>Code of Virginia</u> § 22.1-309</p>
<p><b>8 VAC 20-90-70, B</b></p> <p>B. <b>Fact-Finding Panel.</b> Within 15 days after the teacher receives the notice referred to in <del>§3.1 Subsection A.1.</del> <u>Subdivision A1 of this section</u>, either the teacher or the school board, by written notice to the other party upon a form to be prescribed by the Board of Education, may elect to have a hearing before a fact-finding panel prior to any decision by the school board.</p>	<p>Editorial Revision To locate referenced citation (no substantive change)</p>

<p><b>8 VAC 20-90-70, B, 2</b></p> <p>1. <b>Selection of Impartial Third Member.</b> In the event that both panel members are unable to agree upon a third panel member within five <del>working</del> <u>business</u> days, both members of the panel shall request the chief judge of the circuit court having jurisdiction of the school division to furnish a list of five qualified and impartial individuals from which list one individual shall be selected by the two members of the panel as the third member. The individuals named by the chief judge may reside either within or without the jurisdiction of the circuit court, be residents of the Commonwealth of Virginia, and in all cases shall possess some knowledge and expertise in public education and education law and shall be deemed by the judge capable of presiding over an administrative hearing. Within five <u>business</u> days after receipt by the two panel members of the list of fact finders nominated by the chief judge, the panel members shall meet to select the third panel member. Selection shall be made by the panel members, alternately deleting names from the list until only one remains with the panel member selected by the teacher to make the first deletion. The third impartial panel member shall chair the panel. No elected official shall serve as a panel member. <u>Panel members shall not be parties to, or witnesses to, the matter grieved. With the agreement of the teacher's and division superintendent's panel members, the impartial panel member shall have the authority to conduct the hearing and make recommendations as set forth herein while acting as a hearing officer.</u></p> <p><u>The Attorney General shall represent personally or through one of his assistants any third impartial panel member who shall be made a defendant in any civil action arising out of any matter connected with his duties as a panel member. If, in the opinion of the Attorney General, it is impracticable or uneconomical for such legal representation to be rendered by him or one of his assistants, he may employ special counsel of this purpose, whose compensation shall be fixed by the Attorney General and be paid out of the funds appropriated for the administration of the Department of Education.</u></p>	<p>Exact language change From the <u>Code of Virginia</u> § 22.1-312, A.</p>
<p><b>8 VAC 20-90-70, B, 3</b></p> <p>3. <b>Holding of Hearing.</b> The hearing shall be held by the panel within 30 <del>calendar</del> <u>business</u> days from the date of the selection of the final panel member. The panel shall set the date, place, and time for the hearing and shall so notify the division superintendent and the teacher. The teacher and the division superintendent each may have present at the hearing and be represented at all stages by legal counsel or another representative.</p>	<p>Exact language change From the <u>Code of Virginia</u> <del>§22.1-308,4</del> § 22.1-312, A.</p>

<p><b>8 VAC 20-90-70, B, 4,b&amp;c</b></p> <p>b. The panel may ask, <u>at the beginning of the hearing</u>, for statements from the division superintendent and the teacher (or their representative) clarifying the issues involved, <u>at the beginning of the hearing and at the discretion of the panel may allow closing statements.</u></p> <p>c. The parties shall then present their claims <del>in</del> <u>and</u> evidence. Witnesses may be questioned by the panel members, <del>and by</del> the teacher and the division superintendent <del>or their representative</del>. However, the panel may, at its discretion, vary this procedure but shall afford full and equal opportunity to all parties for presentation of any material or relevant evidence and shall afford the parties the right of cross examination.</p>	<p>Exact language change From the <u>Code of Virginia</u> § 22.1-312, D.</p>
<p><b>VAC 20-90-70, B, 4, f, g, &amp;j</b></p> <p>f. <u>The facts found and recommendations made by the panel shall be arrived at by a majority vote of the panel members.</u></p> <p>fg. <del>The facts found and recommendations and findings of fact made by of the panel shall be based exclusively upon the evidence presented to the panel at the hearing, and such facts found and recommendations made shall be arrived at by a majority vote of the panel members. No panel member shall conduct an independent investigation involving the matter grieved.</del></p> <p>kj. A stenographic record or tape recording of the proceedings shall be taken. <del>However, in proceedings concerning grievances not related to dismissal or probation, the recording may be dispensed with entirely by mutual consent of the parties. In such proceedings, if the recording is not dispensed with, the two parties shall share the cost of the recording equally; if either party requests a transcript, that party shall bear the expense of its preparation.</del></p>	<p>Exact language change From the <u>Code of Virginia</u> § 22.1-312, F.</p> <p>Exact language change From the <u>Code of Virginia</u> § 22.1-312, L.</p> <p>Exact language change From the <u>Code of Virginia</u> § 22.1-312, I.</p>
<p><b>VAC 20-90-70, C, 1.</b></p> <p>1. After receipt of the notice of pending dismissal or placing on probation described in <del>§3.1 Subsection A. 1. Subdivision A1 of this section</del>, the teacher may request a hearing before the school board by delivering written notice to the division superintendent within 15 days from the receipt of notice from the superintendent. Subsequent to the hearing by a fact-finding panel under <del>§3.1 Subsection B. Subdivision B</del>, the teacher, as permitted by <del>§3.1 Subsection B. 6. Subdivision B7 of this section</del>, or the school board may request a school board hearing by written notice to the opposing party and the division superintendent within 10 <u>business</u> days after the receipt by the party initiating such hearing of the findings of fact and recommendations made by the fact-finding panel and the transcript of the panel hearing. Such notice shall be provided upon a form to be prescribed by the Board of Education and shall specify each matter to be inquired into by the school board.</p>	<p>Editorial Revision to locate referenced citation (no substantive change)</p> <p>Exact language change From the <u>Code of Virginia</u> § 22.1-313, D.</p>

<p><b>8 VAC 20-90-70 C, 4</b></p> <p>4. The teacher and the division superintendent may be represented by legal counsel and another representative. The hearing before the school board shall be private, unless the teacher requests a public hearing. The school board shall establish the rules for the conduct of any hearing before it. Such rules shall include the opportunity for the teacher and the division superintendent to make an opening statement and to present all material or relevant evidence, including the testimony of witnesses and the right of all parties to cross-examine the witnesses. Witnesses may be questioned by the school board. <u>The school board may hear a recommendation for dismissal and make a determination whether to make a recommendation to the Board of Education regarding the teacher's license at the same hearing or hold a separate hearing for each action.</u></p>	<p>Exact language change From the <u>Code of Virginia</u> §22.1-311</p>
<p><b>VAC 20-90-70, D, 2</b></p> <p>2. The school board may dismiss, suspend, or place on probation a teacher upon a majority vote of a quorum of the school board. In the event the school board's decision is at variance with the recommendations of the fact-finding panel, the school board's decision is at variance with the recommendation of the fact finding panel, the school board's written decision shall include the rationale for the decision <u>shall be required to conduct an additional hearing which shall be public unless the teacher requests a private one. However, if the fact-finding hearing was held in private, the additional hearing shall be held in private. The hearing shall be conducted by the school board pursuant to 8 VAC 20-90-60.C1&amp;2, except that the grievant and the division superintendent shall be allowed to appear, to be represented, and to give testimony. However, the additional hearing shall not include examination and cross-examination of any other witnesses. The school board's written decision shall include the rationale for the decision.</u></p>	<p>Exact language change From the <u>Code of Virginia</u> §22.1-313</p>

TABLE OF CONTENTS

Part I-Definitions.....2

Part II-Grievance Procedure.....4

Part III-Procedure for Dismissals or Placing on Probation and Time Limitations.....15

## Procedure for Adjusting Grievances

### PART I Definitions

#### 8 VAC 20-90-10 Definitions

The following words and terms, when used in these regulations, shall have the following meaning, unless the context clearly indicates otherwise:

**"Days"** means calendar days unless a different meaning is clearly expressed in this procedure. Whenever any period of time fixed by this procedure shall expire on a Saturday, Sunday, or legal holiday, the period of time for taking action under this procedure shall be extended to the next day if it is not a Saturday, Sunday, or legal holiday.

**"Dismissal"** means the dismissal of any teacher within the term of such teacher's contract and the nonrenewal of a contract of a teacher on a continuing contract.

**"Grievance"** means, for the purpose of Part II (8 VAC 20-90-20 et seq.), a complaint or a dispute by a teacher relating to his or her employment, including but not necessarily limited to disciplinary actions other than dismissal or placing on probation; the application or interpretation of personnel policies, procedures, rules, and regulations, ordinances, and statutes; acts of reprisal against a teacher for filing or processing a grievance, participating as a witness in any step, meeting or hearing relating to a grievance, or serving as a member of a fact-finding panel; and complaints of discrimination on the basis of race, color, creed, political affiliation, handicap, age, national origin, or sex. "Grievance" means, for the purpose of Part III (8 VAC 20-90-60 et seq.), a complaint or a dispute involving a teacher relating to his or her employment involving dismissal or placing on probation. The term "grievance" shall not include a complaint or dispute by a teacher relating to the establishment and revision of wages or salaries, position classifications, or general benefits; suspension of a teacher or nonrenewal of the contract of a teacher who has not achieved continuing contract status; the establishment or contents of ordinances, statutes, or personnel policies, procedures, rules, and regulations; failure to promote; discharge, layoff, or suspension from duties because of decrease in enrollment, decrease in enrollment or abolition of a particular subject or insufficient funding; hiring, transfer,

assignment, and retention of teachers within the school division; suspension from duties in emergencies; or the methods, means, and personnel by which the school division's operations are to be carried on. While these management rights are reserved to the school board, failure to apply, where applicable, these rules, regulations, policies, or procedures as written or established by the school board is grievable.

**"Personnel file"** means, for the purpose of Part III (8 VAC 20-90-60), any and all memoranda, entries, or other documents included in the teacher's file as maintained in the central school administration office or in any file ~~on~~ regarding the teacher maintained within a school in which the teacher serves.

**"Probation"** means a period not to exceed one year during which time it shall be the duty of the teacher to remedy those deficiencies that gave rise to the probationary status.

**"Teacher" or "teachers"** means, for the purpose of Part II (8 VAC 20-90-20 et seq.), all employees of the school division involved in classroom instruction and all other full-time employees of the school division except those employees classified as supervising employees. "Teacher" means, for the purpose of Part III (8VAC 20-90-60 et seq.), all regularly licensed professional public school personnel employed under a written contract as provided by §22.1-302 of the Code of Virginia by any school division as a teacher or supervisor of classroom teachers but excluding all superintendents.

**"Shall file," "shall respond in writing," or "shall serve written notice"** means the document is either delivered personally to the grievant or office of the proper school board representative or is mailed by registered or certified mail, return receipt requested, and postmarked within the time limits prescribed by this procedure.

**"Supervisory employee"** means any person having authority in the interest of the board (i) to hire, transfer, suspend, layoff, recall, promote, discharge, assign, reward, or discipline other employees; and (ii) to direct other employees; or (iii) to adjust the grievance of other employees; or (iv) to recommend any action set forth in (i), (ii), or (iii) above; provided that the authority to act as set forth in (i), (ii), (iii), or (iv) requires the exercise of independent judgment and is not merely routine and clerical in nature.

**"Written grievance appeal"** means a written or typed statement describing the event or action complained of or the date of the event or action, and a concise description of those policies, procedures, regulations, ordinances or statutes upon which the teacher bases his or her claim. The grievant shall specify what he or she seeks through the use of the grievance procedure. A statement shall be written upon forms prescribed by the Board of Education and supplied by the local school board.

## **PART II**

### **Grievance Procedure**

#### **8 VAC 20-90-20 Purpose of Part II of this Grievance Procedure**

The purpose of Part II of the Procedure for Adjusting Grievances is to provide an orderly procedure for resolving disputes concerning the application, interpretation, or violation of any of the provisions of local school board policies, procedures, rules, and regulations as they affect the work of teachers, other than dismissal or probation. An equitable solution of grievances should be secured at the most immediate administrative level. The procedure should not be construed as limiting the right of any teacher to discuss any matter of concern with any member of the school administration. Nor should the procedure be construed to restrict any teacher's right to seek, or the school division administration's right to provide, review of complaints that are not included within the definition of a grievance. Nothing in this procedure shall be interpreted to limit a school board's exclusive final authority over the management and operation of the school division.

#### **8 VAC 20-90-30 Grievance Procedure**

Recognizing that grievances should be begun and settled promptly, a grievance must be initiated within 15 ~~working~~ business days following either the event giving rise to the grievance, or within 15 ~~working~~ business days following the time when the employee knew or reasonably should have known of its occurrence. Grievances shall be processed as follows:

- A. **Step 1 - Informal.** The first step shall be an informal conference between the teacher and his or her immediate supervisor (which may be the principal). The teacher shall state the nature of the grievance, and the immediate supervisor shall attempt to adjust the grievance. It is mandatory that the teacher presents the grievance informally prior to proceeding to Step 2.
- B. **Step 2 - Principal.** If for any reason the grievance is not resolved informally to the satisfaction of the teacher in Step 1, the teacher must perfect his or her grievance by filing said grievance in writing within 15 ~~working~~ business days following the event giving rise to the grievance, or within 15 ~~working~~ business days following the time when the employee knew or reasonably should have known of its occurrence, specifying on the form the specific relief sought. Regardless of the outcome of Step 1, if a written grievance is not, without just cause, filed within the specified time, the grievance will be barred.



## Procedure for Adjusting Grievances

A meeting shall be held between the principal (or his or her designee or both) and the teacher (or his or her designee or both) within five working business days of the receipt by the principal of the written grievance. At such meeting the teacher and/or other party involved shall be entitled to present appropriate witnesses and to be represented by legal counsel and another representative. The principal (or his or her designee or both) shall respond in writing within five working business days following such meeting.

The principal may forward to the teacher within five days from the receipt of the written grievance a written request for more specific information regarding the grievance. The teacher shall file an answer ~~to that~~ thereto within 10 working business days, and the meeting must then be held within five business days ~~after that~~ thereafter.

- C. **Step 3 - Superintendent.** If the grievance is not settled to the teacher's satisfaction in Step 2, the teacher can proceed to Step 3 by filing a written notice of appeal with the superintendent, accompanied by the original grievance appeal form within five working business days after receipt of the Step 2 answer (or the due date of such answer). A meeting shall then be held between the superintendent (or his or her designee or both) and the teacher (or his or her designee or both) at a mutually agreeable time within five working business days. At such meeting both the superintendent and the teacher shall be entitled to present witnesses and to be represented by legal counsel and another representative. A representative may examine, cross-examine, question, and present evidence on behalf of a grievant or the superintendent without violating the provisions of §54.1-3904 of the Code of Virginia. If no settlement can be reached in said meeting, the superintendent (or his or her designee) shall respond in writing within five working business days following such meeting. The superintendent or designee may make a written request for more specific information from the teacher, but only if such was not requested in Step 2. Such request shall be answered within 10 working business days, and the meeting shall be held within five working business days of the date on which the answer was received. If the grievance is not resolved to the satisfaction of the teacher in Step 3, the teacher may elect to have a hearing by a fact-finding panel, as provided in Step 4, or after giving proper notice may request a decision by the school board pursuant to Step 5.

- D. **Step 4 - Fact-Finding Panel.** In the event the grievance is not settled upon completion of Step 3, either the teacher or the school board may elect to have a hearing by a fact-finding panel prior to a decision by the school board, as provided in Step 4. If the teacher elects to proceed to Step 4, he must notify the superintendent in writing of the intention to request a fact-finding panel and enclose a copy of the original grievance form within five working business days after receipt of a Step 3 answer (or the due date of such answer). If the school board elects to proceed to a fact-finding panel, the superintendent must serve written notice of the board's intention to the grievant within 15 working business days after the answer provided by Step 3.
1. **Panel.** Within five working business days after the receipt by the division superintendent of the request for a fact-finding panel, the teacher and the division superintendent shall each select one panel member from among the employees of the school division other than an individual involved in any previous phase of the grievance procedure as a supervisor, witness or representative. The two panel members so selected shall within five working business days of their selection select a third impartial panel member.
  2. **Selection of Impartial Third Member.** In the event that both panel members are unable to agree upon a third panel member within five working business days, both members of the panel shall request the chief judge of the circuit court having jurisdiction of the school division to furnish a list of five qualified and impartial individuals from which one individual shall be selected by the two members of the panel to serve as the third member. The individuals named by the chief judge may reside either within or outside the jurisdiction of the circuit court, be residents of the Commonwealth of Virginia, and in all cases shall possess some knowledge and expertise in public education and education law and shall be deemed by the judge to be capable of presiding over an administrative hearing. Within five business days after receipt by the two panel members of the list of fact finders nominated by the chief judge, the panel members shall meet to select the third panel member. Selection shall be made by alternately deleting names from the list until only one remains. The panel member selected by the teacher shall make the first deletion. The third impartial panel member shall chair the panel. No elected official shall serve as a panel member. Panel members shall not be parties to, or witnesses to, the matter grieved. With the agreement of the teacher's and division superintendent's panel members, the impartial panel member shall

## Procedure for Adjusting Grievances

have the authority to conduct the hearing and make recommendations as set forth herein while acting as a hearing officer.

The Attorney General shall represent personally or through one of his assistants any third impartial panel member who shall be made a defendant in any civil action arising out of any matter connected with his duties as a panel member. If, in the opinion of the Attorney General, it is impracticable or uneconomical for such legal representation to be rendered by him or one of his assistants, he may employ special counsel of this purpose, whose compensation shall be fixed by the Attorney General and be paid out of the funds appropriated for the administration of the Department of Education.

3. **Holding of Hearing.** The hearing shall be held by the panel within 30 ~~calendar~~ business days from the date of selection of the final panel member. The panel shall set the date, place, and time for the hearing and shall so notify the division superintendent and the teacher. The teacher and the division superintendent each may have present at the hearing and be represented at all stages by a representative or legal counsel.
4. **Procedure for Fact-Finding Panel**
  - a. The panel shall determine the propriety of attendance at the hearing of persons not having a direct interest in the hearing, provided that, at the request of the teacher, the hearing shall be private.
  - b. The panel may ask, at the beginning of the hearing, for statements from the division superintendent and the teacher clarifying the issues involved. ~~at the beginning of the hearing and at the discretion of the panel may allow closing statements.~~
  - c. The parties shall then present their claims ~~in~~ and evidence. Witnesses may be questioned by the panel members, ~~or by the teacher and the division superintendent. or their representative.~~ The panel may, ~~in~~ at its discretion, ~~may~~ vary this procedure, but shall afford full and equal opportunity ~~for~~ to all parties to present any material or relevant evidence and shall afford the parties the right of cross-examination.

## Procedure for Adjusting Grievances

- d. The parties shall produce such additional evidence as the panel may deem necessary to an understanding and determination of the dispute. The panel ~~may~~ shall be the judge of the relevancy and materiality of the evidence offered. All evidence shall be taken in the presence of the panel and of the parties.
- e. Exhibits offered by the teacher or the division superintendent may be received in evidence by the panel and, when so received, shall be marked and made a part of the record.
- f. ~~The finding of facts~~ facts found and recommendations made by the panel shall be ~~based exclusively upon the evidence presented at the hearing and the panel's recommendations shall be~~ arrived at by a majority vote of the panel members.
- g. ~~On its own motion or upon application of the teacher or division superintendent, t~~ The hearing may be reopened by the panel, on its own motion or upon application of the teacher or the division superintendent for good cause shown, at any time to hear after-discovered evidence at any time before its final report is delivered the panel's report is made.
- h. The panel shall make a written report that shall include its findings of fact and recommendations and shall file it with the members of the school board, the division superintendent, and the teacher, not later than 30 business days after the completion of the hearing.
- i. A stenographic record or tape recording of the proceedings shall be taken ~~of the proceedings~~. However, in proceedings concerning grievances not related to dismissal or probation, the recording may be dispensed with entirely by mutual consent of the parties. In such proceedings, if the recording is not dispensed with, the two parties shall share equally the cost of the recording. If either party requests a transcript, that party shall bear the expense involved in preparing it of its preparation n.

In cases of dismissal or probation, a record or recording of the proceedings shall be made and preserved for a period of six months. If either the teacher or the school board requests that a transcript of the record or recording be made at any time prior to expiration of the six-month period, it shall be made and copies shall be furnished to both parties. The school board shall bear the expense of the recording and the transcription.

- j. The recommendations and findings of fact of the panel submitted to the school board shall be based exclusively upon the evidence presented to the panel at the hearing. No panel member shall conduct an independent investigation involving the matter grieved.

**5. Expenses**

- a. The teacher shall bear his or her own expenses. The school board shall bear the expenses of the division superintendent. The expenses of the panel shall be borne one half by the school board and one half by the teacher.
- b. The parties shall set the per diem rate of the panel. If the parties are unable to agree on the per diem, it shall be fixed by the chief judge of the circuit court. No employee of the school division shall receive such per diem for service on a panel during his or her normal working business hours if he or she receives the normal salary for the period of such service.
- c. Witnesses who are employees of the school board shall be granted release time if the hearing is held during the school day. The hearing shall be held at the school in which most witnesses work, if feasible.

**6. Right to Further Hearings**

Following a hearing by a fact-finding panel, the teacher shall not have the right to a further hearing by the school board as provided in subsection E(3) of this section. The school board shall have the right to require a further hearing in any grievance proceeding as provided in subsection E(3) of this section.

**E. Step 5 - Decision by the School Board**

- 1. If a teacher elects to proceed directly to a determination before the school board as provided for in Step 5, he or she must notify the superintendent in writing of the intention to appeal directly to the board, of the grievance alleged and the relief sought, within five working business days after

## Procedure for Adjusting Grievances

receipt of the answer as required in Step 3 or the due date thereof. Upon receipt of such notice, the school board may elect to have a hearing before a fact-finding panel, as indicated in Step 4, by filing a written notice of such intention with the teacher within 10 ~~working~~ business days of the deadline for the teacher's request for a determination by the school board.

2. In the case of a hearing before a fact-finding panel, the school board shall give the grievant its written decision within 30 days after the school board receives both the transcript of such hearing, if any, and the panel's finding of fact and recommendations unless the school board proceeds to a hearing under ~~§2.2 Subsection E.3~~ Subdivision E.3. of this section. The decision of the school board shall be reached after considering the transcript, if any; the findings of fact and recommendations of the panel; and such further evidence as the school board may receive at any further hearing that the school board elects to conduct.
3. In any case in which a hearing before a fact-finding panel is held in accordance with Step 4, the local school board may conduct a further hearing before such school board.
  - a. The local school board shall initiate such hearing by sending written notice of its intention to the teacher and the division superintendent within 10 days after receipt by the board of the findings of fact and recommendations of the fact-finding panel and any transcript of the panel hearing. Such notice shall be provided upon forms to be prescribed by the Board of Education and shall specify each matter to be inquired into by the school board.
  - b. In any case where such further hearing is held by a school board after a hearing before the fact-finding panel, the school board shall consider at such further hearing the transcript, if any; the findings and recommendations of the fact-finding panel; and such further evidence including, but not limited to, the testimony of those witnesses who have previously testified before the fact-finding panel as the school board deems may be appropriate or as may be offered on behalf of the grievant or the administration.

- c. The further hearing before the school board shall be set within 30 days of the initiation of such hearing, and the teacher must be given at least 15 days written notice of the date, place, and time of the hearing. The teacher and the division superintendent may be represented by legal counsel and another representative. The hearing before the school board shall be private, unless the teacher

requests a public hearing. The school board shall establish the rules for the conduct of any hearing before it. Such rules shall include the opportunity for the teacher and the division superintendent to make an opening statement and to present all material or relevant evidence, including the testimony of witnesses and the right of all parties or their representatives to cross-examine the witnesses. Witnesses may be questioned by the school board.

The school board's attorney, assistants, or representative, if he, she, or they represented a participant in the prior proceedings, the grievant, the grievant's attorney, or representative and, notwithstanding the provisions of §22.1-69, the superintendent shall be excluded from any executive session of the school board which has as its purpose reaching a decision on a grievance.

However, immediately after a decision has been made and publicly announced, as in favor of or not in favor of the grievant, the school board's attorney or representative and the superintendent may join the school board in executive session to assist in the writing of the decision.

A stenographic record or tape recording of the proceedings shall be taken. However, in proceedings concerning grievances not related to dismissal or probation, the recording may be dispensed with entirely by mutual consent of the parties. In such proceedings, if the recording is not dispensed with, the two parties shall share the cost of the recording equally; if either party requests a transcript, that party shall bear the expense of its preparation.

In the case of dismissal or probation, a record or recording of the proceedings shall be made and preserved for a period of six months. If either the teacher or the school board requests that a transcript of the record or recording be made at any time prior

## Procedure for Adjusting Grievances

to expiration of the six-month period, it shall be made and copies shall be furnished to both parties. The school board shall bear the expense of the recording and the transcription.

- d. The decision of the school board shall be based solely on the transcript, if any; the findings of fact and recommendations of the fact-finding panel; and any evidence relevant to the issues of the original grievance produced at the school board hearing in the presence of each party. The school board shall give the grievant its written decision within 30 days after the completion of the hearing before the school board. In the event the school board's decision is at variance with the recommendations of the fact-finding panel, the school board's written decision shall include the rationale for the decision.
3. In any case where a hearing before a fact-finding panel is not held, the board may hold a separate hearing or may make its determination on the basis of the written evidence presented by the teacher and the recommendation of the superintendent.
4. The school board shall retain its exclusive final authority over matters concerning employment and the supervision of its personnel.

### 8 VAC 20-90-40 Grievability

- A. **Initial Determination of Grievability.** Decisions regarding whether a matter is grievable shall be made by the school board at the request of the division superintendent or grievant. The school board shall reach its decision only after allowing the division superintendent and the grievant opportunity to present written or oral arguments regarding grievability. The decision as to whether the arguments shall be written or oral shall be in the discretion of the school board. Decisions shall be made within 10 business days of such request. Such determination of grievability shall be made subsequent to the reduction of the grievance to writing but prior to any panel or board hearing or the right to such determination shall be deemed to have been waived. Failure of the school board to make such a determination within such a prescribed 10-business day period shall entitle the grievant to advance to the next step as if the matter were grievable.



**B. Appeal of Determination on Grievability**

1. Decisions of the school board may be appealed to the circuit court having jurisdiction in the school division for a hearing on the issue of grievability.
  - a. Proceedings for a review of the decision of the school board shall be instituted by filing a notice of appeal with the school board within 10 business days after the date of the decision and giving a copy thereof to all other parties.
  - b. Within 10 business days thereafter, the school board shall transmit to the clerk of the court to which the appeal is taken a copy of its decision, a copy of the notice of appeal and the exhibits. The failure of the school board to transmit the record within the time allowed shall not prejudice the rights of the grievant. The court, on motion of the grievant, may issue a writ of certiorari requiring the school board to transmit the record on or before a certain date.
  - c. Within 10 business days of receipt by the clerk of such record, the court, sitting without a jury, shall hear the appeal on the record transmitted by the school board and such additional evidence as may be necessary to resolve any controversy as to the correctness of the record. The court, in its discretion, may receive such other evidence as the ends of justice require.
  - d. The court may affirm the decision of the school board or may reverse or modify the decision. The decision of the court shall be rendered not later than the fifteenth day from the date of the conclusion of the court's hearing.

**8 VAC 20-90-50 Time Limitations**

The right of any party to proceed at any step of this Part II grievance procedure shall be conditioned upon compliance with the time limitations and other requirements set forth in this procedure.

- A. The failure of the teacher to comply with all substantial procedural requirements, including initiation of the grievance and notice of appeal to the next step in the procedure, shall eliminate the teacher's right to any further proceedings on the grievance unless just cause for such failure can be shown.

## Procedure for Adjusting Grievances

- B. The failure of the school board or any supervisory employee to comply with all substantial procedural requirements without just cause shall entitle the grievant, at his or her option, to advance to the next step in the procedure or, at the final step, to a decision in his or her favor.
- C. The determination as to whether the substantial procedural requirements of this Part II of the Procedure for Adjusting Grievances have been complied with shall be made by the school board. In any case in which there is a factual dispute as to whether the procedural requirements have been met or just cause has been shown for failure to comply, the school board shall have the option of allowing the grievant to proceed to its next step. The fact that the grievance is allowed to proceed in such case shall not prevent any party from raising such failure to observe the substantial procedural requirements as an affirmative defense at any further hearing involving the grievance.

## **PART III**

### **Procedure for Dismissals or Placing on Probation and Time Limitations**

#### **8 VAC 20-90-60 Dispute Resolution**

This Part III of the Procedure for Adjusting Grievances adopted by the Board of Education in accordance with the statutory mandate of Article 3, Chapter 15, Title 22.1 of the Code of Virginia and the Standards of Quality for school divisions, is to provide an orderly procedure for the expeditious resolution of disputes involving the dismissal or placing on probation of any teacher.

#### **8 VAC 20-90-70 Procedure for Dismissals or Placing on Probation**

##### **A. Notice to teacher of recommendation for dismissal or placing on probation**

1. In the event a division superintendent determines to recommend dismissal of any teacher or the placing on probation of a teacher on continuing contract, written notice shall be sent to the teacher on forms to be prescribed by the Board of Education notifying him or her of the proposed dismissal or placing on probation and informing the teacher that within 15 days after receiving the notice, the teacher may request a hearing before the school board or before a fact-finding panel as hereinafter set forth.
2. During such 15-day period and thereafter until a hearing is held in accordance with the provisions herein, if one is requested by the teacher, the merits of the recommendation of the division superintendent shall not be considered, discussed, or acted upon by the school board except as provided for herein.
3. At the request of the teacher, the superintendent shall provide the reasons for the recommendation in writing or, if the teacher prefers, in a personal interview. In the event a teacher requests a hearing pursuant to §22.1-311 or §22.1-312, the division superintendent shall provide, within 10 days of the request, the teacher or his representative with the opportunity to inspect and copy his personnel file and all other documents relied upon in reaching the decision to recommend dismissal or probation. Within 10 days of the request of the division superintendent, the teacher or his representative shall provide the division superintendent with the opportunity to inspect and copy the documents to be offered in rebuttal to

the decision to recommend dismissal or probation. The division superintendent and the teacher or his representative shall be under a continuing duty to disclose and produce any additional documents identified later which may be used in the respective parties' cases-in-chief. The cost of copying such documents shall be paid by the requesting party.

- B. **Fact-Finding Panel.** Within 15 days after the teacher receives the notice referred to in ~~§3.1 Subsection A.1.~~ Subdivision A1 of this section, either the teacher or the school board, by written notice to the other party upon a form to be prescribed by the Board of Education, may elect to have a hearing before a fact-finding panel prior to any decision by the school board.
1. **Panel.** Within five ~~working~~ business days after the receipt by the division superintendent of the request for a fact-finding panel, the teacher and the division superintendent shall each select one panel member from among the employees of the school division other than an individual involved in the recommendation of dismissal or placing on probation as a supervisor, witness, or representative. The two panel members so selected shall within five ~~working~~ business days of their selection select a third impartial panel member.
  2. **Selection of Impartial Third Member.** In the event that both panel members are unable to agree upon a third panel member within five ~~working~~ business days, both members of the panel shall request the chief judge of the circuit court having jurisdiction of the school division to furnish a list of five qualified and impartial individuals from which list one individual shall be selected by the two members of the panel as the third member. The individuals named by the chief judge may reside either within or without the jurisdiction of the circuit court, be residents of the Commonwealth of Virginia, and in all cases shall possess some knowledge and expertise in public education and education law and shall be deemed by the judge capable of presiding over an administrative hearing. Within five business days after receipt by the two panel members of the list of fact finders nominated by the chief judge, the panel members shall meet to select the third panel member. Selection shall be made by the panel members, alternately deleting names from the list until only one remains with the panel member selected by the teacher to make the first deletion. The third impartial panel member shall chair the panel. No elected official shall serve as a panel member. Panel members shall not be parties to, or witnesses to, the matter grieved. With the agreement of the

## Procedure for Adjusting Grievances

The teacher's and division superintendent's panel members, the impartial panel member shall have the authority to conduct the hearing and make recommendations as set forth herein while acting as a hearing officer.

The Attorney General shall represent personally or through one of his assistants any third impartial panel member who shall be made a defendant in any civil action arising out of any matter connected with his duties as a panel member. If, in the opinion of the Attorney General, it is impracticable or uneconomical for such legal representation to be rendered by him or one of his assistants, he may employ special counsel of this purpose, whose compensation shall be fixed by the Attorney General and be paid out of the funds appropriated for the administration of the Department of Education.

3. **Holding of Hearing.** The hearing shall be held by the panel within 30 calendar days from the date of the selection of the final panel member. The panel shall set the date, place, and time for the hearing and shall so notify the division superintendent and the teacher. The teacher and the division superintendent each may have present at the hearing and be represented at all stages by legal counsel or another representative.
4. **Procedure for Fact-Finding Panel**
  - a. The panel shall determine the propriety of attendance at the hearing of persons not having a direct interest in the hearing, provided that, at the request of the teacher, the hearing shall be private.
  - b. The panel may ask, at the beginning of the hearing, for statements from the division superintendent and the teacher (or their representative) clarifying the issues involved. ~~at the beginning of the hearing and at the discretion of the panel may allow closing statements.~~
  - c. The parties shall then present their claims ~~in~~ and evidence. Witnesses may be questioned by the panel members, ~~and by the teacher and the division superintendent or their representative.~~ However, the panel may, at its discretion, vary this procedure but shall afford full and equal opportunity to all parties for

## Procedure for Adjusting Grievances

presentation of any material or relevant evidence and shall afford the parties the right of cross examination.

- d. The parties shall produce such additional evidence as the panel may deem necessary to an understanding and determination of the dispute. The panel shall be the judge of relevancy and materiality of the evidence offered. All evidence shall be taken in the presence of the panel and of the parties.
- e. Exhibits offered by the teacher or the division superintendent may be received by the panel and, when so received, shall be marked and made a part of the record.
- f. The facts found and recommendations made by the panel shall be arrived at by a majority vote of the panel members.
- fg. ~~The facts found and recommendations and findings of fact made by of the panel shall be based exclusively upon the evidence presented to the panel at the hearing, and such facts found and recommendations made shall be arrived at by a majority vote of the panel members.~~ No panel member shall conduct an independent investigation involving the matter grieved.
- gh. The hearing may be reopened by the panel at any time before the panel's report is made upon its own motion or upon application of the teacher or the division superintendent for good cause shown to hear after-discovered evidence.
- hi. The panel shall make a written report that shall include its findings of fact and recommendations and shall file it with the members of the school board, the division superintendent, and the teacher, not later than 30 days after the completion of the hearing.
- kj. A stenographic record or tape recording of the proceedings shall be taken. However, in proceedings concerning grievances not related to dismissal or probation, the recording may be dispensed with entirely by mutual consent of the parties. In such proceedings, if the recording is not dispensed with, the two parties shall share the cost of the recording equally; if either party requests a transcript, that party shall bear the expense of its preparation.

In cases of dismissal or probation, a record or recording of the proceedings shall be made and preserved for a period of six months. If either the teacher or the school board requests that a transcript of the record or recording be made at any time prior to expiration of the six-month period, it shall be made and copies shall be furnished to both parties. The school board shall bear the expense of the recording and the transcription.

**5. Expenses**

- a. The teacher shall bear his or her own expenses. The school board shall bear the expenses of the division superintendent. The expenses of the panel shall be borne one half by the school board and one half by the teacher.
- b. The parties shall set the per diem rate of the panel. If the parties are unable to agree on the per diem, it shall be fixed by the chief judge of the circuit court. No employee of the school division shall receive such per diem for service on a panel during his or her normal ~~working~~ business hours if he or she receives his or her normal salary for the period of such service.

6. **Right to Further Hearing.** If the school board elects to have a hearing by a fact-finding panel on the dismissal or placing on probation of a teacher, the teacher shall have the right to a further hearing by the school board as provided in subsection C of this section. The school board shall have the right to require a further hearing as provided in subsection C also.
7. **Witnesses.** Witnesses who are employees of the school board shall be granted release time if the hearing is held during the school day. The hearing shall be held at the school in which most witnesses work, if feasible.

**C. Hearing by School Board**

1. After receipt of the notice of pending dismissal or placing on probation described in ~~§3.1 Subsection A. 1. Subdivision A1~~ of this section, the teacher may request a hearing before the school board by delivering written notice to the division superintendent within 15 days from the receipt of notice from the superintendent. Subsequent to the hearing by a fact-finding panel under ~~§3.1 Subsection B. Subdivision B.~~ the teacher, as permitted by ~~§3.1 Subsection B. 6. Subdivision B7~~ of this section, or the school board may request a school board hearing by written notice to the opposing party and the division superintendent within 10 business days after the receipt by the party initiating such hearing of the findings of fact and recommendations made by the fact-finding panel and the transcript of the panel hearing. Such notice shall be provided upon a form to be prescribed by the Board of Education and shall specify each matter to be inquired into by the school board.
2. In any case in which a further hearing is held by a school board after a hearing before the fact-finding panel, the school board shall consider at such further hearing the record, or transcript, if any, the finding of fact and recommendations made by the fact-finding panel and such further evidence, including but not limited to, the testimony of those witnesses who have previously testified before the fact-finding panel as the school board deems appropriate or as may be offered on behalf of the teacher or the superintendent.
3. The school board hearing shall be set and conducted within 30 days of the receipt of the teacher's notice or the giving by the school board of its notice. The teacher shall be given at least 15 days' written notice of the date, place, and time of the hearing and such notice shall also be provided to the division superintendent.
4. The teacher and the division superintendent may be represented by legal counsel and another representative. The hearing before the school board shall be private, unless the teacher requests a public hearing. The school board shall establish the rules for the conduct of any hearing before it. Such rules shall include the opportunity for the teacher and the division superintendent to make an opening statement and to present all material or relevant evidence, including the testimony of witnesses and the right of all parties to cross-examine the witnesses. Witnesses may be questioned by



the school board. The school board may hear a recommendation for dismissal and make a determination whether to make a recommendation to the Board of Education regarding the teacher's license at the same hearing or hold a separate hearing for each action.

5. A record or recording of the proceedings shall be made and preserved for a period of six months. If either the teacher or the school board requests that a transcript of the record or recording be made at any time prior to expiration of the six-month period, it shall be made and copies shall be furnished to both parties. The board shall bear the expense of the recording and the transcription.
6. The school board shall give the teacher its written decision within 30 days after the completion of the hearing before the school board.
7. The decision by the school board shall be based on the transcript, the findings of fact, and recommendations made by the fact-finding panel and any evidence relevant to the issues of the original grievance produced at the school board hearing in the presence of each party.

The school board's attorney, assistants, or representative, if he, she, or they represented a participant in the prior proceedings, the grievant, the grievant's attorney, or representative and notwithstanding the provisions of §22.1-69, the superintendent shall be excluded from any executive session of the school board which has as its purpose reaching a decision on a grievance. However, immediately after a decision has been made and publicly announced, as in favor of or not in favor of the grievant, the school board's attorney or representative and the superintendent may join the school board in executive session to assist in the writing of the decision.

#### **D. School Board Determination**

1. In any case in which a hearing is held before a fact-finding panel but no further hearing before the school board is requested by either party, the school board shall give the teacher its written decision within 30 days after the school board receives both the transcript of such hearing and the panel's findings of fact and recommendations. The decision of the school

## Procedure for Adjusting Grievances

board shall be reached after considering the transcript, the findings of fact, and the recommendations made by the panel.

2. The school board may dismiss, suspend, or place on probation a teacher upon a majority vote of a quorum of the school board. In the event the school board's decision is at variance with the recommendations of the fact-finding panel, ~~the school board's decision is at variance with the recommendation of the fact-finding panel, the school board's written decision shall include the rationale for the decision~~ shall be required to conduct an additional hearing which shall be public unless the teacher requests a private one. However, if the fact-finding hearing was held in private, the additional hearing shall be held in private. The hearing shall be conducted by the school board pursuant to 8 VAC 20-90-60,C1&2, except that the grievant and the division superintendent shall be allowed to appear, to be represented, and to give testimony. However, the additional hearing shall not include examination and cross-examination of any other witnesses. The school board's written decision shall include the rationale for the decision.

### 8 VAC20-90-80 Time Limitations

The right of any party to proceed at any step of the grievance procedure shall be conditioned upon compliance with the time limitations and other requirements set forth in this grievance procedure.

- A. The failure of the grievant to comply with all substantial procedural requirements shall terminate the teacher's right to any further proceedings on the grievance unless just cause for such failure can be shown.
- B. The failure of the school board or of any supervisory employee to comply with all substantial procedural requirements without just cause shall entitle the grievant, at his or her option, to advance to the next step in the procedure or, at the final step, to a decision in his or her favor.

- C. The determination as to whether the substantial procedural requirements of this Part III of the Procedure for Adjusting Grievances have been complied with shall be made by the school board. In any case in which there is a factual dispute as to whether the procedural requirements have been met or just cause has been shown for failure to comply, the school board shall have the option of allowing the grievance to proceed to its next step. The fact that the grievance is allowed to proceed in such case shall not prevent any party from raising such failure to observe the substantial procedural requirements as an affirmative defense at any further hearing involving the grievance.

**8 VAC20-90-90 Forms**

- A. Principal's Decision
- B. Request for Hearing
- C. Notice of Proposed Dismissal or Proposed Placing on Probation

# **FORMS FOR PART II OF THE PROCEDURE FOR ADJUSTING GRIEVANCES**

*Enclosed herein are the necessary forms for adjusting grievances in accordance with Part II of the Grievance Procedure of the State Board of Education.*

*The grievant is advised to become familiar with the procedure for adjusting grievances. Special emphasis should be given to the procedural steps.*

**VIRGINIA BOARD OF EDUCATION**

## STATEMENT OF GRIEVANCE

### STEP 2 – TO BE PRESENTED TO PRINCIPAL

Name of grievant	Date filed
School/department of assignment	Subject area or grade
Immediate superior and/or principal	Grievant's representative
Policy, procedure, regulation, ordinance, statute being grieved, and date you knew of reasonably should have known of its occurrence:	

---

Statement of grievance:

---

Specific relief requested:

Grievant's signature	Representative's signature
Date	Date

## PRINCIPAL'S DECISION

### STEP 2 – DECISION TO BE PRESENTED TO GRIEVANT

Name of grievant	Date grievance received
Decision of principal or designee:	

\_\_\_ I lack the authority to grant the relief requested.

Signature of principal or designee	Date								
Is the above decision acceptable to grievant?	<table><tr><td>Yes</td><td><u>Check one box</u></td></tr><tr><td></td><td>No</td></tr><tr><td></td><td></td></tr><tr><td></td><td></td></tr></table>	Yes	<u>Check one box</u>		No				
Yes	<u>Check one box</u>								
	No								

\_\_\_ I hereby appeal this decision to Step 3, Superintendent's Level.

Grievant's signature	Date
----------------------	------

## SUPERINTENDENT'S LEVEL

### STEP 3 – DECISION TO BE PRESENTED TO GRIEVANT

Name of grievant	Date appeal received
------------------	----------------------

Decision of superintendent or designee:

Signature of principal or designee	Date								
Is the above decision acceptable to the grievant?	<table><tr><td>Yes</td><td><u>Check one box</u></td></tr><tr><td></td><td>No</td></tr><tr><td></td><td></td></tr><tr><td></td><td></td></tr></table>	Yes	<u>Check one box</u>		No				
Yes	<u>Check one box</u>								
	No								

\_\_\_ I hereby appeal this decision.

Grievant's signature	Date
----------------------	------

## REQUEST FOR HEARING

### STEP 5 – DECISION TO BE PRESENTED TO GRIEVANT

Name of grievant	Date grievance filed
------------------	----------------------

(Check one)

☐ I hereby petition the attached grievance be submitted to an advisory fact-finding hearing.

\_\_\_\_\_ Panel Designee

☐ I hereby waive my right to an advisory fact-finding hearing and petition that the following grievance be submitted to the board.

Grievant's signature	Representative's signature
Date	Date



# **FORMS FOR PART III OF THE PROCEDURE FOR ADJUSTING GRIEVANCES**

## **FORMS FOR PROPOSED DISMISSAL/PROBATION**

*Enclosed herein are the necessary forms for proposed dismissal/probation proceeding as prescribed in Part III of the procedure enacted by the State Board of Education.*

*VIRGINIA BOARD OF EDUCATION*

**NOTIFICATION: NOTICE OF PROPOSED DISMISSAL OR PROPOSED PLACING  
ON PROBATION**

\_\_\_\_\_  
Date

\_\_\_\_\_  
Name of teacher

\_\_\_\_\_  
School/department of assignment

(Check one)

\_\_\_\_ The Division Superintendent will recommend to the School Board that you be placed on probation for the period:

\_\_\_\_\_ to \_\_\_\_\_  
(date) (date)

At your request Reasons for this recommendation will be provided to you in writing or ~~at your request~~ in a personal interview ~~within three (3) days of your request~~.

\_\_\_\_ The Division Superintendent will recommend to the School Board that you be dismissed from your position as:

\_\_\_\_\_  
(position)

At your request Reasons for this recommendation will be provided to you in writing or ~~at your request~~ in a personal interview ~~within three (3) days of your request~~.

You have 15 days from receipt of this form to request, in writing, a hearing before the School Board or an advisory fact-finding panel as provided in the procedure. Please advise me as soon as possible whether you wish to have such a hearing (see attached form). Enclosed, for your information, is a copy of the procedure.

\_\_\_\_\_  
Signature of Superintendent

**REQUEST FOR HEARING**

TO BE SUBMITTED TO SUPERINTENDENT

Name of teacher	Superintendent's proposed action
	<input type="checkbox"/> Dismissal
	<input type="checkbox"/> Probation

(Check one)

☐ I hereby request that I be afforded an advisory fact-finding hearing on the above referenced matter.

\_\_\_\_\_ Panel Designee

☐ I hereby waive my right to an advisory fact-finding hearing and request that I be afforded a hearing before the School Board on the above referenced matter.

Teacher's signature	Representative's signature
Date	Date

# Board of Education Agenda Item

Item: F

Date: September 22, 2004

Topic: First Review of Emergency Regulations for Conducting Division-Level Academic Reviews

Presenter: Mr. Charles W. Finley, Assistant Superintendent for Educational Accountability

Telephone Number: 804-225-2747

E-Mail Address: cfinley@mail.vak12ed.edu

## Origin:

       Topic presented for information only (no board action required)

  X   Board review required by  
  X   State or federal law or regulation  
       Board of Education regulation  
       Other:                                 

  X   Action requested at this meeting        Action requested at future meeting:                                   
(date)

## Previous Review/Action:

       No previous board review/action

  X   Previous review/action  
date       July 22, 2004        
action The Board of Education's Committee on the Lowest Performing School Divisions reviewed  
the proposed regulations.

## Background Information:

*The Regulations Establishing Standards for Accrediting Public Schools in Virginia* in 8 VAC 20-131-300.C.4. require a school to be "Accredited with Warning (in specified academic area or areas)" if its pass rate on any SOL test does not meet required benchmarks to qualify for any other accreditation rating. Any school rated Accredited with Warning must undergo an academic review in accordance with guidelines adopted by the Board of Education in accordance with 8 VAC 20-131-340.A of the regulations. It is the responsibility of the Department of Education to develop this academic review process for approval of the Board of Education.

On July 23, 2003, the Board of Education approved revisions to the school-level academic review process to be used during the 2003-2004 school year. As part of these revisions, the Board discussed the

development of an academic review process to be used at the central office level for school divisions having a significant number or percentage of schools or types of schools rated accredited with warning.

On April 28, 2004 the Board of Education approved the process by which division-level academic reviews are to be conducted. On June 23, 2004 the Board of Education approved the criteria by which school divisions will be selected for division-level academic reviews.

### **Summary of Major Elements**

House Bill 1294, passed by the General Assembly and signed into law on April 15, 2004, gave the Board of Education the authority to require division-level academic reviews in school divisions where findings of school-level Academic Reviews show that the failure of the schools to reach full accreditation is related to the local school board's failure to meet its responsibilities under the *Standards of Quality*. House Bill 1294 also requires, in part:

“That the Board of Education shall promulgate regulations to implement the provisions of this act to be effective within 280 days of its enactment.”

Emergency regulations are needed to ensure that the conducting of Division-Level Academic Reviews begins as close to the beginning of the 2004-2005 school year as is practicable. Proposed emergency regulations to meet these requirements are attached.

At the July 21, 2004 meeting of the Board of Education's Lowest Performing School Divisions Committee, the proposed regulations were reviewed and it was recommended that the following provision be added in 8 VAC 20-700-30:

*F. The Department of Education may contract with an outside agency to conduct division-level academic reviews in which case, all of the procedures adopted by the Board shall be followed.*

**Superintendent's Recommendation:** The Superintendent of Public Instruction recommends that the Board waive first review and approve the attached emergency regulations for conducting division-level academic reviews and authorize staff of the Department of Education to proceed with the remaining steps required by the Administrative Process Act.

**Impact on Resources:** Funds for academic reviews have been approved for the 2004-2006 biennium to conduct these activities.

**Timetable for Further Review/Action:** The Department of Education will notify local school divisions of the changes in the regulations when final approval is granted through the Administrative Process Act.

**Board of Education**

**8VAC20-700-10**

**EMERGENCY REGULATIONS GOVERNING DIVISION-LEVEL ACADEMIC  
REVIEWS**

**8VAC20-700-10. Definitions.**

The following words and terms, when used in this regulation, shall have the following meaning unless the context clearly indicates otherwise:

“Board” means the Virginia Board of Education

“Department” means the Virginia Department of Education

“Division-level Academic Review” means the process used to analyze school divisions’ systems and practices to determine the degree to which local school boards are meeting their responsibilities under the *Standards of Quality*.

**8VAC20-700-20. Criteria for Selection for Review.**

A. School divisions selected for division-level academic reviews will be divisions with consistently low performing schools as defined in procedures adopted by the Board. Such procedures shall not be construed as regulations as defined in § [2.2-4001](#) of the Code of Virginia.

**8VAC20-700-30. Structure of the Review.**

A. All division-level academic reviews shall be conducted in accordance with procedures adopted by the Board. Such procedures shall not be construed as regulations as defined in § [2.2-4001](#) of the Code of Virginia.

B. The Board may approve the use of school division reviews conducted by independent agencies upon the request of local school boards provided the reviews meet or exceed the requirements for reviews conducted by the Department outlined in procedures adopted by the Board. Agencies that conduct these reviews must employ individuals whose qualifications must meet or exceed those of individuals who serve as Department representatives for the purpose of conducting academic reviews. The Board shall retain the authority to monitor and ensure the implementation of the corrective action plan developed by the school division as part of the division-level academic review process.

C. Requests for approval of external reviews submitted to the Board must include, at a minimum, the

**Board of Education**

**8VAC20-700-10**

**EMERGENCY REGULATIONS GOVERNING DIVISION-LEVEL ACADEMIC  
REVIEWS**

following documentation:

1. A description of the organization that will conduct the review;
2. The scope of the review;
3. Dates of the review; and
4. Certification from the chairman of the local school board and division superintendent that the review will meet or exceed the requirements for academic reviews adopted by the Board.

D. Requests for approval of external reviews must be submitted to the Superintendent of Public Instruction, who, by authority of the Board of Education, shall review and approve or disapprove those requests.

E. Upon completion of the external review, the division superintendent shall submit a copy of the final report provided by the reviewer to the Department of Education, and comply with the remaining provisions for follow-up activities outlined in procedures adopted by the Board. Such procedures shall not be construed as regulations as defined in § [2.2-4001](#) of the Code of Virginia.

F. The Department of Education may contract with an outside agency to conduct division-level academic reviews in which case, all of the procedures adopted by the Board shall be followed.



Virginia  
Regulatory  
Town Hall

## Emergency Regulation Agency Background Document

<b>Agency Name:</b>	Board (Department) of Education
<b>VAC Chapter Number:</b>	8 VAC 20-700-10 et seq.
<b>Regulation Title:</b>	Emergency Regulations for Conducting Division-Level Academic Reviews
<b>Action Title:</b>	Division-Level Academic Reviews
<b>Date:</b>	September 22, 2004

Section 9-6.14:4.1(C)(5) of the Administrative Process Act allows for the adoption of emergency regulations. Please refer to the APA, Executive Order Twenty-Four (98), and the *Virginia Register Form, Style and Procedure Manual* for more information and other materials required to be submitted in the emergency regulation submission package.

### Emergency Preamble

*Please provide a statement that the emergency regulation is necessary and provide detail of the nature of the emergency. Section 9-6.14:4.1(C)(5) of the Administrative Process Act states that an "emergency situation" means: (i) a situation involving an imminent threat to public health or safety; or (ii) a situation in which Virginia statutory law, the Virginia appropriation act, or federal law requires that a regulation shall be effective in 280 days or less from its enactment, or in which federal regulation requires a regulation to take effect no later than 280 days from its effective date. The statement should also identify that the regulation is not otherwise exempt under the provisions of § 9-6.14:4.1(C)(4).*

*Please include a brief summary of the emergency action. There is no need to state each provision or amendment.*

House Bill 1294, passed by the General Assembly and signed into law on April 15, 2004, gave the Board of Education the authority to require division-level academic reviews in school divisions where findings of school-level Academic Reviews show that the failure of the schools to reach full accreditation is related to the local school board's failure to meet its responsibilities under the *Standards of Quality*. House Bill 1294 also requires, in part:



“That the Board of Education shall promulgate regulations to implement the provisions of this act to be effective within 280 days of its enactment.”

Emergency regulations are needed to ensure that the conducting of Division-Level Academic Reviews begins as close to the beginning of the 2004-2005 school year as is practicable. Proposed emergency regulations to meet these requirements are attached.

### Basis

*Please identify the state and/or federal source of legal authority to promulgate the emergency regulation. The discussion of this emergency statutory authority should: 1) describe its scope; and 2) include a brief statement relating the content of the statutory authority to the specific regulation. Full citations of legal authority and web site addresses, if available for locating the text of the cited authority, should be provided.*

*Please provide a statement that the Office of the Attorney General has certified that the agency has the statutory authority to promulgate the emergency regulation and that it comports with applicable state and/or federal law.*

---

§ 22.1-16 of the *Code of Virginia* states, “The Board of Education may adopt bylaws for its own government and promulgate such regulations as may be necessary to carry out its powers and duties and the provisions of this title.”

HB1294 enacted by the 2004 General Assembly amended ' 22.1-253.13:3 of the Code to include the following provision: “When the Board of Education has obtained evidence through the school academic review process that the failure of schools within a division to achieve full accreditation status is related to division level failure to implement the Standards of Quality, the Board may require a division level academic review. After the conduct of such review and within the time specified by the Board of Education, each school board shall submit for approval by the Board a corrective action plan, consistent with criteria established by the Board and setting forth specific actions and a schedule designed to ensure that schools within its school achieve full accreditation status. Such corrective action plans shall be part of the relevant school division's six-year improvement plan pursuant to § [22.1-253.13:6](#). The legislation also required the Board to promulgate regulations to implement the provisions of this act to be effective within 280 days of its enactment.”

### Substance

*Please detail any changes, other than strictly editorial changes, that would be implemented. Please outline new substantive provisions, all substantive changes to existing sections, or both where appropriate. Please provide a cross-walk which includes citations to the specific sections of an existing regulation being amended and explain the consequences of the proposed changes. The statement should set forth the specific reasons the agency has determined that the proposed regulatory action would be essential to protect the health, safety or welfare of Virginians. The statement should also delineate any potential issues that may need to be addressed as a permanent final regulation is developed.*

The emergency regulation is new. It is essential to protect the welfare of Virginians because provides the structure for the Board of Education and staff of the Department of Education for the orderly conduct of division-level academic reviews in selected school divisions. In addition, it defines some flexibility for options to reviews to be conducted by agencies or organizations other than the Department of Education when appropriate. At the present time, no potential issues to be addressed as a permanent final regulation have been identified.

### Alternatives

*Please describe the specific alternatives that were considered and the rationale used by the agency to select the least burdensome or intrusive method to meet the essential purpose of the action.*

---

The agency considered more extensive regulations but elected to develop the minimum requirements necessary for the Board of Education and Department of Education to carry out the responsibilities mandated by the General Assembly. Procedures for conducting division-level academic reviews to accompany the regulation have been developed and approved by the Board of Education.

### Family Impact Statement

*Please provide a preliminary analysis of the potential impact of the emergency action on the institution of the family and family stability including to what extent the action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.*

---

The emergency action will serve to improve the quality of educational opportunities of the children in the commonwealth in school divisions where academic reviews are conducted but it will not: 1) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 2) strengthen or erode the marital commitment; or 3) increase or decrease disposable family income.

# Board of Education Agenda Item

Item: G

Date: September 22, 2004

Topic: First Review of Proposed Revisions to the Standards of Quality

Presenter: Ms. Anne D. Wescott, Assistant Superintendent for Policy and Communications

Telephone Number: (804) 225-2403 E-Mail Address: [awescott@mail.vak12ed.edu](mailto:awescott@mail.vak12ed.edu)

## Origin:

☐ Topic presented for information only (no board action required)

☒ Board review required by  
☒ State or federal law or regulation  
☐ Board of Education regulation  
☐ Other: \_\_\_\_\_

☐ Action requested at this meeting ☒ Action requested at future meeting: November 17, 2004

## Previous Review/Action:

☒ No previous board review/action (Discussion item at the April 28, 2004 Board of Education planning session; meetings of the Standing Committee on the Standards of Quality held on May 24, 2004, June 22, 2004, and July 20, 2004.)  
☐ Previous review/action  
date \_\_\_\_\_  
action \_\_\_\_\_

**Background Information:** Article VIII, § 2 of the Constitution of Virginia requires the Board of Education to determine and prescribe standards of quality for the public schools in Virginia. The Constitution states:

Standards of quality for the several school divisions shall be determined and prescribed from time to time by the Board of Education, subject to revision only by the General Assembly. The General Assembly shall determine the manner in which funds are to be provided for the cost of maintaining an educational program meeting the prescribed standards of quality...

On August 7, 1971, the Board of Education adopted the first Standards of Quality (SOQ). They were revised by the General Assembly in 1972 and adopted as uncoded Acts of Assembly. In 1974, they were revised into eight standards. In 1984, they were codified by the General Assembly, and in 1988 they were arranged into their current format. The Board of Education recommended significant changes to the Standards of Quality in 2003. The legislation proposed by the Board, HB 1014, SB 479, and HB 1294, was passed by the 2004 General Assembly.

The Board began considering further changes to the Standards of Quality at the April 2004 annual planning session. Subsequently, the Board's Standing Committee on the Standards of Quality held two work sessions, in May and June. The committee held a forum in July 2004 and invited the Virginia Association of School Superintendents, Virginia School Boards Association, Virginia Association for Supervision and Curriculum Development, Virginia Education Association, Virginia Association of Secondary School Principals, Virginia Association of Elementary School Principals, Virginia CARES, Virginia Education Coalition, Virginia Association of Counties, Virginia Municipal League, and Virginia Congress of Parents and Teachers. The Board then opened the Standards of Quality to public comment.

**Summary of Major Elements:** Attached are the proposed changes to the Standards of Quality. These changes include the following:

**Standard 1: Instructional programs supporting the Standards of Learning and other educational objectives**

- The curriculum adopted by the local school board shall be aligned to the Standards of Learning.
- Local school boards shall develop and implement a program of instruction for grades K through 12 that corresponds to the Standards of Learning, and meets or exceeds requirements of the Board of Education.
- Local school boards shall implement a process of collecting and analyzing data, and using the results to evaluate and make decisions about the instructional program.

**Standard 2. Instructional, administrative, and support personnel**

- State funding, pursuant to the appropriation act, shall be provided to support 17 full-time equivalent instructional positions for each 1,000 students identified as having limited English proficiency. [This language comports with Item 146 C.15 of the 2004 Appropriation Act.]

**Standard 3. Accreditation, other standards and evaluation**

- Local school boards shall report the results of all school academic reviews and the required annual progress reports in public session. The local school board shall implement any actions identified through the academic review and utilize them for improvement planning.
- Each local school board shall require the implementation of a data-driven decision making process to evaluate student progress and determine and recognize education performance.
- Each local school division superintendent shall regularly review the division's submission of data and reports required by state and federal law and regulations to ensure that all information is accurate and submitted in a timely fashion.
- Each school board shall analyze and report annually the results from industry certification examinations.

**Standard 5. Teacher quality and educational leadership**

- Teacher evaluations shall be based on regular observation of the teacher in the classroom. The evaluations shall be based, in part, on evidence that instruction is aligned with the school division's written curriculum, and shall include identification of appropriate professional development tailored to each individual teacher's instructional needs.

- Each local school board shall require its members to participate annually in high-quality professional development programs on governance, including but not limited to personnel policies and practices: curriculum and instruction; use of data in planning and decision-making; and current issues in education. [The current language requires annual participation in high quality professional development in personnel, curriculum, and current issues in education.]
- Local school boards shall provide teachers and principals with high-quality professional development programs each year in instructional content.
- Each school board shall require all instructional personnel to participate each year in these high quality professional development programs.
- Each local school board shall annually review its professional development program for quality, effectiveness, participation by instructional personnel, and relevancy to the instructional needs of teachers and the academic achievement needs of the students in the school division.

#### **Standard 6. Planning and public involvement**

- The Board of Education's statewide comprehensive, unified, long-range plan shall be based on data collection, analysis, and evaluation. [The current language requires the Board of Education and local school boards to adopt six-year plans and for schools to prepare biennial plans. The proposed amendments would delete the specific timeframes and, instead, would require comprehensive, unified, long-range plans.]
- The Board's plan shall include the objectives related to the improvement and sustainability of student achievement.
- Each local school board's divisionwide comprehensive, unified, long-range plan shall be based on data collection, analysis, and evaluation.
- The local school board's plan shall include, or be consistent with, all other divisionwide plans required by state and federal laws and regulations.
- The local school board's plan shall include the objectives related to the improvement and sustainability of student achievement.
- The local school board's plan shall include provisions for parent and family involvement to include building successful school and parent partnerships.

#### **Standard 8. Compliance**

- Each local school board shall report its compliance with the Standards of Quality to the Board of Education annually. The report of compliance shall be submitted to the Board of Education by the chairman of the local school board and the division superintendent.
- Noncompliance with the Standards of Quality shall be included in the Board of Education's annual report to the Governor and the General Assembly.

**Superintendent's Recommendation:** N/A

**Impact on Resources:** The impact on resources is not expected to be significant.

**Timetable for Further Review/Action:** Following public hearings, final approval will be requested at the November 2004 Board meeting.

**§ 22.1-253.13:1. Standard 1. Instructional programs supporting the Standards of Learning and other educational objectives.**

A. The General Assembly and the Board of Education believe that the fundamental goal of the public schools of this Commonwealth must be to enable each student to develop the skills that are necessary for success in school and preparation for life. The General Assembly and the Board of Education find that the quality of education is dependent upon the provision of (i) the appropriate working environment, benefits, and salaries necessary to ensure the availability of high-quality instructional personnel; (ii) the appropriate learning environment designed to promote student achievement; (iii) quality instruction that enables each student to become a productive and educated citizen of Virginia and the United States of America; and (iv) the adequate commitment of other resources. In keeping with this goal, the General Assembly shall provide for the support of public education as set forth in Article VIII, Section 1 of the Constitution of Virginia.

B. The Board of Education shall establish educational objectives known as the Standards of Learning, which shall form the core of Virginia's educational program, and other educational objectives, which together are designed to ensure the development of the skills that are necessary for success in school and for preparation for life in the years beyond. At a minimum, the Board shall establish Standards of Learning for English, mathematics, science, and history and social science. The Standards of Learning shall not be construed to be regulations as defined in § 2.2-4001.

The Board shall seek to ensure that the Standards of Learning are consistent with a high-quality foundation educational program. The Standards of Learning shall include, but not be limited to, the basic skills of communication (listening, speaking, reading, and writing); computation and critical reasoning including problem solving and decision making; proficiency in the use of computers and related technology; and the skills to manage personal finances and to make sound financial decisions.

The English Standards of Learning for reading in kindergarten through grade three shall be based on components of effective reading instruction, to include, at a minimum, phonemic awareness, phonics, fluency, vocabulary development, and text comprehension.

The Standards of Learning in all subject areas shall be subject to regular review and revision to maintain rigor and to reflect a balance between content knowledge and the application of knowledge in preparation for eventual employment and lifelong learning. The Board of Education shall establish a regular schedule, in a manner it deems appropriate, for the review, and revision as may be necessary, of the Standards of Learning in all subject areas. Such review of each subject area shall occur at least once every seven years. Nothing in this section shall be construed to prohibit the Board from conducting such review and revision on a more frequent basis.

To provide appropriate opportunity for input from the general public, teachers, and local school boards, the Board of Education shall conduct public hearings prior to establishing revised Standards of Learning. Thirty days prior to conducting such hearings, the Board

shall give notice of the date, time, and place of the hearings to all local school boards and any other persons requesting to be notified of the hearings and publish notice of its intention to revise the Standards of Learning in the Virginia Register of Regulations. Interested parties shall be given reasonable opportunity to be heard and present information prior to final adoption of any revisions of the Standards of Learning.

In addition, the Department of Education shall make available and maintain a website, either separately or through an existing website utilized by the Department of Education, enabling public elementary, middle, and high school educators to submit recommendations for improvements relating to the Standards of Learning, when under review by the Board according to its established schedule, and related assessments required by the Standards of Quality pursuant to this chapter. Such website shall facilitate the submission of recommendations by educators.

School boards shall implement the Standards of Learning or objectives specifically designed for their school divisions that are equivalent to or exceed the Board's requirements. Students shall be expected to achieve the educational objectives established by the school division at appropriate age or grade levels. The curriculum adopted by the local school division shall be aligned to the Standards of Learning.

The Board of Education shall ~~supplement~~ include in the Standards of Learning for history and social science ~~to ensure~~ the study of contributions to society of diverse people. For the purposes of this subsection, "diverse" shall include consideration of disability, ethnicity, race, and gender.

With such funds as are made available for this purpose, the Board shall regularly review and revise the competencies for career and technical education programs to require the full integration of English, mathematics, science, and history and social science Standards of Learning. Career and technical education programs shall be aligned with industry and professional standard certifications, where they exist.

C. Local school boards shall develop and implement a program of instruction for grades K through 12 that corresponds to the Standards of Learning, and meets or exceeds requirements of the Board of Education. The program of instruction shall emphasize reading, writing, speaking, mathematical concepts and computations, proficiency in the use of computers and related technology, and scientific concepts and processes; essential skills and concepts of citizenship, including knowledge of Virginia history and world and United States history, economics, government, foreign languages, international cultures, health and physical education, environmental issues and geography necessary for responsible participation in American society and in the international community; fine arts, which may include, but need not be limited to, music and art, and practical arts; knowledge and skills needed to qualify for further education and employment or, in the case of children with disabilities, to qualify for appropriate training; and development of the ability to apply such skills and knowledge in preparation for eventual employment and lifelong learning.

Local school boards shall also develop and implement programs of prevention, intervention, or remediation for students who are educationally at risk including, but not

1 limited to, those who fail to achieve a passing score on any Standards of Learning  
2 assessment in grades three through eight or who fail an end-of-course test required for the  
3 award of a verified unit of credit required for the student's graduation.

4 Any student who passes one or more, but not all, of the Standards of Learning  
5 assessments for the relevant grade level in grades three through eight may be required to  
6 attend a remediation program.

7 Any student who fails all of the Standards of Learning assessments for the relevant grade  
8 level in grades three through eight shall be required to attend a summer school program  
9 or to participate in another form of remediation. Division superintendents shall require  
10 such students to take special programs of prevention, intervention, or remediation, which  
11 may include attendance in public summer school programs, in accordance with clause (ii)  
12 of subsection A of § 22.1-254 and § 22.1-254.01.

13 Remediation programs shall include, when applicable, a procedure for early identification  
14 of students who are at risk of failing the Standards of Learning assessments in grades  
15 three through eight or who fail an end-of-course test required for the award of a verified  
16 unit of credit required for the student's graduation. Such programs may also include  
17 summer school for all elementary and middle school grades and for all high school  
18 academic courses, as defined by regulations promulgated by the Board of Education, or  
19 other forms of remediation. Summer school remediation programs or other forms of  
20 remediation shall be chosen by the division superintendent to be appropriate to the  
21 academic needs of the student. Students who are required to attend such summer school  
22 programs or to participate in another form of remediation shall not be charged tuition by  
23 the school division.

24 The requirement for remediation may, however, be satisfied by the student's attendance  
25 in a program of prevention, intervention or remediation that has been selected by his  
26 parent, in consultation with the division superintendent or his designee, and is either (i)  
27 conducted by an accredited private school or (ii) a special program that has been  
28 determined to be comparable to the required public school remediation program by the  
29 division superintendent. The costs of such private school remediation program or other  
30 special remediation program shall be borne by the student's parent.

31 The Board of Education shall establish standards for full funding of summer remedial  
32 programs that shall include, but not be limited to, the minimum number of instructional  
33 hours or the equivalent thereof required for full funding and an assessment system  
34 designed to evaluate program effectiveness. Based on the number of students attending  
35 and the Commonwealth's share of the per pupil instructional costs, state funds shall be  
36 provided for the full cost of summer and other remediation programs as set forth in the  
37 appropriation act, provided such programs comply with such standards as shall be  
38 established by the Board, pursuant to § 22.1-199.2.

39 D. Local school boards shall also implement the following:

40 1. Programs in grades K through three that emphasize developmentally appropriate  
41 learning to enhance success.



- 1 2. Programs based on prevention, intervention, or remediation designed to increase the  
2 number of students who earn a high school diploma and to prevent students from  
3 dropping out of school.
- 4 3. Career and technical education programs incorporated into the K through 12 curricula  
5 that include:
  - 6 a. Knowledge of careers and all types of employment opportunities including, but not  
7 limited to, apprenticeships, entrepreneurship and small business ownership, the military,  
8 and the teaching profession, and emphasize the advantages of completing school with  
9 marketable skills;
  - 10 b. Career exploration opportunities in the middle school grades; and
  - 11 c. Competency-based career and technical education programs that integrate academic  
12 outcomes, career guidance and job-seeking skills for all secondary students. Programs  
13 must be based upon labor market needs and student interest. Career guidance shall  
14 include counseling about available employment opportunities and placement services for  
15 students exiting school. Each school board shall develop and implement a plan to ensure  
16 compliance with the provisions of this subdivision. Such plan shall be developed with the  
17 input of area business and industry representatives and local community colleges and  
18 shall be submitted to the Superintendent of Public Instruction in accordance with the  
19 timelines established by federal law.
- 20 4. Early identification of students with disabilities and enrollment of such students in  
21 appropriate instructional programs consistent with state and federal law.
- 22 5. Early identification of gifted students and enrollment of such students in appropriately  
23 differentiated instructional programs.
- 24 6. Educational alternatives for students whose needs are not met in programs prescribed  
25 elsewhere in these standards. Such students shall be counted in average daily membership  
26 (ADM) in accordance with the regulations of the Board of Education.
- 27 7. Adult education programs for individuals functioning below the high school  
28 completion level. Such programs may be conducted by the school board as the primary  
29 agency or through a collaborative arrangement between the school board and other  
30 agencies.
- 31 8. A plan to make achievements for students who are educationally at risk a divisionwide  
32 priority that shall include procedures for measuring the progress of such students.
- 33 9. A plan to notify students and their parents of the availability of dual enrollment and  
34 advanced placement classes, the International Baccalaureate Program, and Academic  
35 Year Governor's School Programs, the qualifications for enrolling in such classes and  
36 programs, and the availability of financial assistance to low-income and needy students to  
37 take the advanced placement and International Baccalaureate examinations.

1 10. Identification of students with limited English proficiency and enrollment of such  
2 students in appropriate instructional programs.

3 11. Early identification, diagnosis, and assistance for students with reading problems and  
4 provision of instructional strategies and reading practices that benefit the development of  
5 reading skills for all students.

6 12. Incorporation of art, music, and physical education as a part of the instructional  
7 program at the elementary school level.

8 13. A program of student services for grades kindergarten through 12 that shall be  
9 designed to aid students in their educational, social, and career development.

10 14. A process of collecting and analyzing data, and using the results to evaluate and  
11 make decisions about the instructional program.

12 E. From such funds as may be appropriated or otherwise received for such purpose, there  
13 shall be established within the Department of Education a unit to (i) conduct evaluative  
14 studies; (ii) provide the resources and technical assistance to increase the capacity for  
15 school divisions to deliver quality instruction; and (iii) assist school divisions in  
16 implementing those programs and practices that will enhance pupil academic  
17 performance and improve family and community involvement in the public schools. Such  
18 unit shall identify and analyze effective instructional programs and practices and  
19 professional development initiatives; evaluate the success of programs encouraging  
20 parental and family involvement; assess changes in student outcomes prompted by family  
21 involvement; and collect and disseminate among school divisions information regarding  
22 effective instructional programs and practices, initiatives promoting family and  
23 community involvement, and potential funding and support sources. Such unit may also  
24 provide resources supporting professional development for administrators and teachers.  
25 In providing such information, resources, and other services to school divisions, the unit  
26 shall give priority to those divisions demonstrating a less than 70 percent passing rate on  
27 the Standards of Learning assessments.

1    **§ 22.1-253.13:2. Standard 2. Instructional, administrative, and support personnel.**

2    A. The Board shall establish requirements for the licensing of teachers, principals,  
3    superintendents, and other professional personnel.

4    B. School boards shall employ licensed instructional personnel qualified in the relevant  
5    subject areas.

6    C. Each school board shall assign licensed instructional personnel in a manner that  
7    produces divisionwide ratios of students in average daily membership to full-time  
8    equivalent teaching positions, excluding special education teachers, principals, assistant  
9    principals, counselors, and librarians, that are not greater than the following ratios: (i) 24  
10   to one in kindergarten with no class being larger than 29 students; if the average daily  
11   membership in any kindergarten class exceeds 24 pupils, a full-time teacher's aide shall  
12   be assigned to the class; (ii) 24 to one in grades one, two, and three with no class being  
13   larger than 30 students; (iii) 25 to one in grades four through six with no class being  
14   larger than 35 students; and (iv) 24 to one in English classes in grades six through 12.

15   Within its regulations governing special education programs, the Board shall seek to set  
16   pupil/teacher ratios for educable mentally retarded (EMR) pupils ~~that who~~ do not exceed  
17   the pupil/teacher ratios for self-contained classes for pupils with specific learning  
18   disabilities.

19   ~~(21:1 ratio is funded for the second year—see Editor's note)~~<sup>1</sup> Further, school boards shall  
20   assign instructional personnel in a manner that produces schoolwide ratios of students in  
21   average daily memberships to full-time equivalent teaching positions of 21 to one in  
22   middle schools and high schools. School divisions shall provide all middle and high  
23   school teachers with one planning period per day or the equivalent, unencumbered of any  
24   teaching or supervisory duties.

25   D. Each local school board shall employ with state and local basic, special education,  
26   gifted, and career and technical education funds a minimum number of licensed, full-time  
27   equivalent instructional personnel for each 1,000 students in average daily membership  
28   (ADM) as set forth in the appropriation act. Calculations of kindergarten positions shall  
29   be based on full-day kindergarten programs. Beginning with the March 31 report of  
30   average daily membership, those school divisions offering half-day kindergarten with  
31   pupil/teacher ratios that exceed 30 to one shall adjust their average daily membership for  
32   kindergarten to reflect 85 percent of the total kindergarten average daily memberships, as  
33   provided in the appropriation act.

34   E. In addition to the positions supported by basic aid and in support of regular school  
35   year programs of prevention, intervention, and remediation, state funding, pursuant to the  
36   appropriation act, shall be provided to fund certain full-time equivalent instructional  
37   positions for each 1,000 students in grades K through 12 who are identified as needing  
38   prevention, intervention, and remediation services. State funding for prevention,

---

<sup>1</sup> Extraneous language in the body of the standard. According to the Editor's Note, the 21:1 ratio is funded for the second year only.

1 intervention, and remediation programs provided pursuant to this subsection and the  
2 appropriation act may be used to support programs for educationally at-risk students as  
3 identified by the local school boards.

4 F. In addition to the positions supported by basic aid and those in support of regular  
5 school year programs of prevention, intervention, and remediation, state funding,  
6 pursuant to the appropriation act, shall be provided to support ~~10-17~~<sup>2</sup> full-time equivalent  
7 instructional positions for each 1,000 students identified as having limited English  
8 proficiency.

9 G. In addition to the full-time equivalent positions required elsewhere in this section,  
10 each local school board shall employ the following reading specialists in elementary  
11 schools, one full-time in each elementary school at the discretion of the local school  
12 board.

13 H. Each local school board shall employ, at a minimum, the following full-time  
14 equivalent positions for any school that reports fall membership, according to the type of  
15 school and student ~~employment~~ enrollment<sup>3</sup>:

16 1. Principals in elementary schools, one half-time to 299 students, one full-time at 300  
17 students; principals in middle schools, one full-time, to be employed on a 12-month  
18 basis; principals in high schools, one full-time, to be employed on a 12-month basis;

19 2. Assistant principals in elementary schools, one half-time at 600 students, one full-time  
20 at 900 students; assistant principals in middle schools, one full-time for each 600  
21 students; assistant principals in high schools, one full-time for each 600 students;

22 3. Librarians in elementary schools, one part-time to 299 students, one full-time at 300  
23 students; librarians in middle schools, one-half time to 299 students, one full-time at 300  
24 students, two full-time at 1,000 students; librarians in high schools, one half-time to 299  
25 students, one full-time at 300 students, two full-time at 1,000 students;

26 4. Guidance counselors in elementary schools, one hour per day per 100 students, one  
27 full-time at 500 students, one hour per day additional time per 100 students or major  
28 fraction thereof; guidance counselors in middle schools, one period per 80 students, one  
29 full-time at 400 students, one additional period per 80 students or major fraction thereof;  
30 guidance counselors in high schools, one period per 70 students, one full-time at 350  
31 students, one additional period per 70 students or major fraction thereof; and

32 5. Clerical personnel in elementary schools, part-time to 299 students, one full-time at  
33 300 students; clerical personnel in middle schools, one full-time and one additional full-  
34 time for each 600 students beyond 200 students and one full-time for the library at 750  
35 students; clerical personnel in high schools, one full-time and one additional full-time for  
36 each 600 students beyond 200 students and one full-time for the library at 750 students.

---

<sup>2</sup> Modify language to match § 146 C.15 of the 2004 Appropriation Act.

<sup>3</sup> Correct error.

I. Local school boards shall employ five positions per 1,000 students in grades kindergarten through five to serve as elementary resource teachers in art, music, and physical education.

J. ~~(See Editor's note)~~<sup>4</sup> Local school boards shall employ two positions per 1,000 students in grades kindergarten through 12, one to provide technology support and one to serve as an instructional technology resource teacher.

K. Local school boards may employ additional positions that exceed these minimal staffing requirements. These additional positions may include, but are not limited to, those funded through the state's incentive and categorical programs as set forth in the appropriation act.

L. A combined school, such as kindergarten through 12, shall meet at all grade levels the staffing requirements for the highest grade level in that school; this requirement shall apply to all staff, except for guidance counselors, and shall be based on the school's total enrollment; guidance counselor staff requirements shall, however, be based on the enrollment at the various school organization levels, i.e., elementary, middle, or high school. The Board of Education may grant waivers from these staffing levels upon request from local school boards seeking to implement experimental or innovative programs that are not consistent with these staffing levels.

M. School boards shall, however, annually, on or before January 1, report to the public the actual pupil/teacher ratios in elementary school classrooms by school for the current school year. Such actual ratios shall include only the teachers who teach the grade and class on a full-time basis and shall exclude resource personnel. School boards shall report pupil/teacher ratios that include resource teachers in the same annual report. Any classes funded through the voluntary kindergarten through third grade class size reduction program shall be identified as such classes. Any classes having waivers to exceed the requirements of this subsection shall also be identified. Schools shall be identified; however, the data shall be compiled in a manner to ensure the confidentiality of all teacher and pupil identities.

N. Students enrolled in a public school on a less than full-time basis shall be counted in ADM in the relevant school division. Students who are either (i) enrolled in a nonpublic school or (ii) receiving home instruction pursuant to § 22.1-254.1, and who are enrolled in public school on a less than full-time basis in any mathematics, science, English, history, social science, career and technical education, fine arts, foreign language, or health education or physical education course shall be counted in the ADM in the relevant school division on a pro rata basis as provided in the appropriation act. Each such course enrollment by such students shall be counted as 0.25 in the ADM; however, no such nonpublic or home school student shall be counted as more than one-half a student for purposes of such pro rata calculation. Such calculation shall not include enrollments of such students in any other public school courses.

---

<sup>4</sup> Extraneous information in the body of the standard. According to the Editor's Note, Subsection J, as set out, was funded for only one position the first year and fully funded for the second year.

1 O. Each local school board shall provide those support services that are necessary for the  
2 efficient and cost-effective operation and maintenance of its public schools.

3 For the purposes of this title, unless the context otherwise requires, "support services"  
4 shall include services provided by the school board members; the superintendent;  
5 assistant superintendents; student services (including guidance counselors, social  
6 workers, and homebound, improvement, principal's office, and library-media positions);  
7 attendance and health positions; administrative, technical, and clerical positions;  
8 operation and maintenance positions; educational technology positions; school nurses;  
9 and pupil transportation positions.

10 Pursuant to the ~~appropriations~~appropriation act, support services shall be funded from  
11 basic school aid on the basis of prevailing statewide costs. |

1    **§ 22.1-253.13:3. Standard 3. Accreditation, other standards and evaluation.**

2    A. The Board of Education shall promulgate regulations establishing standards for  
3    accreditation pursuant to the Administrative Process Act (§ 2.2-4000 et seq.), which shall  
4    include, but not be limited to, student outcome measures, requirements and guidelines for  
5    instructional programs and for the integration of educational technology into such  
6    instructional programs, ~~administrative and instructional staffing levels and positions,~~  
7    ~~including staff positions for supporting educational technology, student services,~~  
8    ~~auxiliary education programs such as library and media services,~~ course and credit  
9    requirements for graduation from high school, community relations, and the philosophy,  
10   goals, and objectives of public education in Virginia.

11   The Board shall review annually the accreditation status of all schools in the  
12   Commonwealth.

13   Each local school board shall maintain schools that are fully accredited pursuant to the  
14   standards of accreditation as prescribed by the Board of Education. Each local school  
15   board shall review the accreditation status of all schools in the local school division  
16   annually in public session.

17   When the Board of Education has obtained evidence through the school academic review  
18   process that the failure of schools within a division to achieve full accreditation status is  
19   related to division failure to implement the Standards of Quality, the Board may require a  
20   division level academic review. After the conduct of such review and within the time  
21   specified by the Board of Education, each school board shall submit for approval by the  
22   Board a corrective action plan, consistent with criteria established by the Board and  
23   setting forth specific actions and a schedule designated to ensure that schools within its  
24   school division achieve full accreditation status. Such corrective action plans shall be  
25   part of the relevant school division's ~~six year improvement comprehensive~~ plan pursuant  
26   to § 22.1-253.13:6.

27   With such funds as are appropriated or otherwise received for this purpose, the Board  
28   shall adopt and implement an academic review process, to be conducted by the  
29   Department of Education, to assist schools that are accredited with warning. The  
30   Department shall forward a report of each academic review to the relevant local school  
31   board, and such school board shall ~~make report~~ the results of such academic review and  
32   the required annual progress reports available to the public in public session. The local  
33   school board shall implement any actions identified through the academic review and  
34   utilize them for improvement planning.

35   B. The Superintendent of Public Instruction shall develop and the Board of Education  
36   shall approve criteria for determining and recognizing educational performance in the  
37   Commonwealth's public school divisions and schools. Such criteria, when approved, shall  
38   become an integral part of the accreditation process and shall include student outcome  
39   measurements. The Superintendent of Public Instruction shall annually identify to the  
40   Board those school divisions and schools that exceed or do not meet the approved  
41   criteria. Such identification shall include an analysis of the strengths and weaknesses of  
42   public education programs in the various school divisions in Virginia and

1 recommendations to the General Assembly for further enhancing student learning  
2 uniformly across the Commonwealth. In recognizing educational performance in the  
3 school divisions, the Board shall include consideration of special school division  
4 accomplishments, such as numbers of dual enrollments and students in Advanced  
5 Placement and International Baccalaureate courses, and participation in academic year  
6 Governor's Schools.

7 The Superintendent of Public Instruction shall assist local school boards in the  
8 implementation of action plans for increasing educational performance in those school  
9 divisions and schools that are identified as not meeting the approved criteria. The  
10 Superintendent of Public Instruction shall monitor the implementation of and report to the  
11 Board of Education on the effectiveness of the corrective actions taken to improve the  
12 educational performance in such school divisions and schools.

13 C. With such funds as are available for this purpose, the Board of Education shall  
14 prescribe assessment methods to determine the level of achievement of the Standards of  
15 Learning objectives by all students. Such assessments shall evaluate knowledge,  
16 application of knowledge, critical thinking, and skills related to the Standards of Learning  
17 being assessed. The Board shall (i) in consultation with the chairpersons of the eight  
18 regional superintendents' study groups, establish a timetable for administering the  
19 Standards of Learning assessments to ensure genuine end-of-course and end-of-grade  
20 testing and (ii) with the assistance of independent testing experts, conduct a regular  
21 analysis and validation process for these assessments.

22 In prescribing such Standards of Learning assessments, the Board shall provide local  
23 school boards the option of administering tests for United States History to 1877, United  
24 States History: 1877 to the Present, and Civics and Economics. The Board of Education  
25 shall make publicly available such assessments in a timely manner and as soon as  
26 practicable following the administration of such tests, so long as the release of such  
27 assessments does not compromise test security or deplete the bank of assessment  
28 questions necessary to construct subsequent tests.

29 The Board shall include in the student outcome measures that are required by the  
30 Standards of Accreditation end-of-course or end-of-grade tests for various grade levels  
31 and classes, as determined by the Board, in accordance with the Standards of Learning.  
32 These Standards of Learning assessments shall include, but need not be limited to, end-  
33 of-course or end-of-grade tests for English, mathematics, science, and history and social  
34 science.

35 In addition, to assess the educational progress of students, the Board of Education shall  
36 (i) develop appropriate assessments, which may include criterion-referenced tests and  
37 alternative assessment instruments that may be used by classroom teachers and (ii)  
38 prescribe and provide measures, which may include nationally normed tests to be used to  
39 identify students who score in the bottom quartile at selected grade levels.

40 D. The Board of Education is authorized to pursue all available civil remedies for  
41 breaches in test security and unauthorized alteration of test materials or test results.  
42 Notwithstanding any other provision of state law, no test or examination authorized by



1 this section, including the Standards of Learning assessments, shall be released or  
2 required to be released as minimum competency tests, if, in the judgment of the Board,  
3 such release would breach the security of such test or examination or deplete the bank of  
4 questions necessary to construct future secure tests.

5 E. With such funds as may be appropriated, the Board of Education may provide, through  
6 an agreement with vendors having the technical capacity and expertise to provide  
7 computerized tests and assessments, and test construction, analysis, and security, for (i)  
8 web-based computerized tests and assessments for the evaluation of student progress  
9 during and after remediation and (ii) the development of a remediation item bank directly  
10 related to the Standards of Learning.

11 F. To assess the educational progress of students as individuals and as groups, each local  
12 school board shall require the implementation of a data-driven decision making process  
13 to evaluate student progress and determine and recognize education performance. Each  
14 local school board shall require the administration of appropriate assessments to all  
15 students for grade levels and courses identified by the Board of Education, which may  
16 include criterion-referenced tests, teacher-made tests and alternative assessment  
17 instruments and shall include the Standards of Learning Assessments and the National  
18 Assessment of Educational Progress state-by-state assessment. Each school board shall  
19 analyze and report annually, in compliance with any criteria that may be established by  
20 the Board of Education, the results from the Stanford Achievement Test Series, Ninth  
21 Edition (Stanford Nine) assessment, if administered, industry certification examinations,  
22 and the Standards of Learning Assessments to the public.

23 The Board of Education shall not require administration of the Stanford Achievement  
24 Test Series, Ninth Edition (Stanford Nine) assessment, except as may be selected to  
25 facilitate compliance with the requirements for home instruction pursuant to § 22.1-  
26 254.1.

27 The Board shall include requirements for the reporting of the Standards of Learning  
28 assessment scores and averages for each year as part of the Board's requirements relating  
29 to the School Performance Report Card. Such scores shall be disaggregated for each  
30 school by gender and by race or ethnicity, and shall be reported to the public within three  
31 months of their receipt. These reports (i) shall be posted on the portion of the Department  
32 of Education's website relating to the School Performance Report Card, in a format and in  
33 a manner that allows year-to-year comparisons, and (ii) may include the National  
34 Assessment of Educational Progress state-by-state assessment.

35 G. Each local school division superintendent shall regularly review the division's  
36 submission of data and reports required by state and federal law and regulations to ensure  
37 that all information is accurate and submitted in a timely fashion. The Superintendent of  
38 Public Instruction shall provide a list of the required reports and data to division  
39 superintendents annually. The status of compliance with this requirement shall be  
40 included in the Board of Education's annual report to the Governor and the General  
41 Assembly as required by § 22.1-18.

1    **§ 22.1-253.13:4. Standard 4. Student achievement and graduation requirements.**

2    A. Each local school board shall award diplomas to all secondary school students,  
3    including students who transfer from nonpublic schools or from home instruction, who  
4    earn the units of credit prescribed by the Board of Education, pass the prescribed tests,  
5    and meet such other requirements as may be prescribed by the local school board and  
6    approved by the Board of Education. Provisions shall be made for students who transfer  
7    between secondary schools and from nonpublic schools or from home instruction as  
8    outlined in the standards for accreditation. Further, reasonable accommodation to meet  
9    the requirements for diplomas shall be provided for otherwise qualified students with  
10   disabilities as needed.

11   In addition, each local school board may devise, vis-a-vis the award of diplomas to  
12   secondary school students, a mechanism for calculating class rankings that takes into  
13   consideration whether the student has taken a required class more than one time and has  
14   had any prior earned grade for such required class expunged.

15   Each local school board shall notify the parent of rising eleventh and twelfth grade  
16   students of (i) the number of standard and verified units of credit required for graduation  
17   pursuant to the standards of accreditation and (ii) the remaining number of such units of  
18   credit the individual student requires for graduation.

19   B. Students identified as disabled who complete the requirements of their individualized  
20   education programs shall be awarded special diplomas by local school boards.

21   Each local school board shall notify the parent of such students with disabilities who have  
22   an individualized education program and who fail to meet the requirements for  
23   graduation of the student's right to a free and appropriate education to age 21, inclusive,  
24   pursuant to Article 2 (§ 22.1-213 et seq.) of Chapter 13 of this title.

25   C. Students who have completed a prescribed course of study as defined by the local  
26   school board shall be awarded certificates of program completion by local school boards  
27   if they are not eligible to receive a standard, advanced studies, modified standard, or  
28   general achievement diploma.

29   Each local school board shall provide notification of the right to a free public education  
30   for students who have not reached 20 years of age on or before August 1 of the school  
31   year, pursuant to Chapter 1 (§ 22.1-1 et seq.) of this title, to the parent of students who  
32   fail to graduate or who have failed to achieve the number of verified units of credit  
33   required for graduation as provided in the standards of accreditation. If such student who  
34   does not graduate or achieve such verified units of credit is a student for whom English is  
35   a second language, the local school board shall notify the parent of the student's  
36   opportunity for a free public education in accordance with § 22.1-5.

37   D. In establishing course and credit requirements for a high school diploma, the Board  
38   shall:

1 1. Provide for the selection of integrated learning courses meeting the Standards of  
2 Learning and approved by the Board to satisfy graduation credit requirements, which  
3 shall include Standards of Learning testing, as necessary;

4 2. Establish the requirements for a standard, modified standard, or advanced studies high  
5 school diploma, which shall include one credit in fine, performing, or practical arts and  
6 one credit in United States and Virginia history. The requirements for a standard high  
7 school diploma shall, however, include at least two sequential electives chosen from a  
8 concentration of courses selected from a variety of options that may be planned to ensure  
9 the completion of a focused sequence of elective courses. Students may take such focused  
10 sequence of elective courses in consecutive years or any two years of high school. Such  
11 focused sequence of elective courses shall provide a foundation for further education or  
12 training or preparation for employment and shall be developed by the school division,  
13 consistent with Board of Education guidelines and as approved by the local school board;

14 3. Provide, in the requirements for the verified units of credit stipulated for obtaining the  
15 standard or advanced studies diploma, that students completing elective classes into  
16 which the Standards of Learning for any required course have been integrated may take  
17 the relevant Standards of Learning test for the relevant required course and receive, upon  
18 achieving a satisfactory score on the specific Standards of Learning assessment, a  
19 verified unit of credit for such elective class that shall be deemed to satisfy the Board's  
20 requirement for verified credit for the required course; and

21 4. Establish a procedure to facilitate the acceleration of students that allows qualified  
22 students, with the recommendation of the division superintendent, without completing the  
23 140-hour class, to obtain credit for such class upon demonstration of mastery of the  
24 course content and objectives. Having received credit for the course, the student shall be  
25 permitted to sit for the relevant Standards of Learning assessment and, upon receiving a  
26 passing score, shall earn a verified credit. Nothing in this section shall preclude relevant  
27 school division personnel from enforcing compulsory attendance in public schools.

28 In addition, the Board may:

29 a. For the purpose of awarding verified units of credit, approve the use of additional or  
30 substitute tests for the correlated Standards of Learning assessment, such as academic  
31 achievement tests, industry certifications or state licensure examinations; and

32 b. Permit students completing career and technical education programs designed to  
33 enable such students to pass such industry certification examinations or state licensure  
34 examinations to be awarded, upon obtaining satisfactory scores on such industry  
35 certification or licensure examinations, the appropriate verified units of credit for one or  
36 more career and technical education classes into which relevant Standards of Learning for  
37 various classes taught at the same level have been integrated. Such industry certification  
38 and state licensure examinations may cover relevant Standards of Learning for various  
39 required classes and may, at the discretion of the Board, address some Standards of  
40 Learning for several required classes.

1 E. In the exercise of its authority to recognize exemplary academic performance by  
2 providing for diploma seals, the Board of Education shall develop criteria for recognizing  
3 exemplary performance in career and technical education programs by students who have  
4 completed the requirements for a standard or advanced studies diploma and shall award  
5 seals on the diplomas of students meeting such criteria.

6 In addition, the Board shall establish criteria for awarding a diploma seal for advanced  
7 mathematics and technology for the standard and advanced studies diplomas. The Board  
8 shall consider including criteria for (i) technology courses; (ii) technical writing, reading,  
9 and oral communication skills; (iii) technology-related practical arts training; and (iv)  
10 industry, professional, and trade association national certifications.

11 The Board shall also establish criteria for awarding a diploma seal for excellence in civics  
12 education and understanding of our state and federal constitutions and the democratic  
13 model of government for the standard and advanced studies diplomas. The Board shall  
14 consider including criteria for (i) successful completion of history, government, and  
15 civics courses, including courses that incorporate character education; (ii) voluntary  
16 participation in community service or extracurricular activities; and (iii) related  
17 requirements as it deems appropriate.

18 F. The Board shall establish, by regulation, requirements for the award of a general  
19 achievement diploma for those persons who have (i) achieved a passing score on the  
20 GED examination; (ii) successfully completed an education and training program  
21 designated by the Board of Education; and (iii) satisfied other requirements as may be  
22 established by the Board for the award of such diploma.

1    **§ 22.1-253.13:5. Standard 5. Teacher quality and educational leadership.**

2    A. Each member of the Board of Education shall participate in high-quality professional  
3    development programs on personnel, curriculum and current issues in education as part  
4    of his service on the Board.

5    B. Consistent with the finding that leadership is essential for the advancement of public  
6    education in the Commonwealth, the Board of Education shall develop uniform  
7    performance standards and evaluation criteria for teachers, administrators, and  
8    superintendents, which shall include standards for training in the implementation of the  
9    Standards of Learning and training in the evaluation and documentation of teacher and  
10   administrator performance based on student academic progress and the skills and  
11   knowledge of instructional personnel.

12   Teacher evaluations shall be based on regular observation of the teacher in the classroom.  
13   The evaluations shall be based, in part, on evidence that instruction is aligned with the  
14   school division's written curriculum, and shall include identification of appropriate  
15   professional development tailored to each individual teacher's instructional needs.

16   C. The Board of Education shall provide guidance on high-quality professional  
17   development for (i) teachers, principals, supervisors, division superintendents and other  
18   school staff; (ii) administrative and supervisory personnel in the evaluation and  
19   documentation of teacher and administrator performance based on student academic  
20   progress and the skills and knowledge of such instructional or administrative personnel;  
21   (iii) school board members on personnel, curriculum and current issues in education; and  
22   (iv) programs in Braille for teachers of the blind and visually impaired, in cooperation  
23   with the Virginia Department for the Blind and Vision Impaired.

24   The Board shall also provide technical assistance on high-quality professional  
25   development to local school boards designed to ensure that all instructional personnel are  
26   proficient in the use of educational technology consistent with its ~~Six-Year Educational~~  
27   ~~Technology Plan for Virginia~~ comprehensive plan for educational technology.

28   D. Each local school board shall require (i) its members to participate annually in high-  
29   quality professional development programs on governance, including but not limited to  
30   personnel policies and practices; curriculum and instruction; use of data in planning and  
31   decision-making; and current issues in education as part of their service on the local  
32   board and (ii) the division superintendent to participate annually in high-quality  
33   professional development activities at the local, state or national levels.

34   E. Each local school board shall provide a program of high-quality professional  
35   development (i) in the use and documentation of performance standards and evaluation  
36   criteria based on student academic progress and skills for teachers and administrators to  
37   clarify roles and performance expectations and to facilitate the successful implementation  
38   of instructional programs that promote student achievement at the school and classroom  
39   levels; (ii) as part of the license renewal process, to assist teachers and principals in  
40   acquiring the skills needed to work with gifted students, students with disabilities, and  
41   students who have been identified as having limited English proficiency and to increase

1 student achievement and expand the knowledge and skills students require to meet the  
2 standards for academic performance set by the Board of Education; (iii) in educational  
3 technology for all instructional personnel which is designed to facilitate integration of  
4 computer skills and related technology into the curricula, and (iv) for administrative  
5 personnel designed to increase proficiency in instructional leadership and management,  
6 including training in the evaluation and documentation of teacher and administrator  
7 performance based on student academic progress and the skills and knowledge of such  
8 instructional or administrative personnel.

9 In addition, each local school board shall also provide teachers and principals with high-  
10 quality professional development programs each year in (i) instructional content; (ii) the  
11 preparation of tests and other assessment measures; ~~(ii)-(iii)~~ methods for assessing the  
12 progress of individual students, including Standards of Learning assessment materials or  
13 other criterion-referenced tests that match locally developed objectives; ~~(iii)-(iv)~~  
14 instruction and remediation techniques in English, mathematics, science, and history and  
15 social science; ~~(iv)-(v)~~ interpreting test data for instructional purposes; and ~~(v)-(vi)~~  
16 technology applications to implement the Standards of Learning.

17 F. Schools and school divisions shall include as an integral component of their ~~biennial~~  
18 ~~plans and six-year comprehensive~~ plans, ~~respectively~~, required by § 22.1-253.13:6, high-  
19 quality professional development programs that support the recruitment, employment,  
20 and retention of qualified teachers and principals. Each school board shall require all  
21 instructional personnel to participate each year in these high quality professional  
22 development programs.

23 G. Each local school board shall annually review its professional development program  
24 for quality, effectiveness, participation by instructional personnel, and relevancy to the  
25 instructional needs of teachers and the academic achievement needs of the students in the  
26 school division.

1    **§ 22.1-253.13:6. Standard 6. Planning and public involvement.**

2    A. The Board of Education shall ~~revise, extend and~~ adopt ~~biennially~~ a statewide ~~six-year~~  
3    ~~comprehensive, unified, long-range~~ plan ~~based on data collection, analysis, and~~  
4    ~~evaluation~~ that shall be developed with statewide participation. The Board shall review  
5    the plan biennially and adopt any necessary revisions. The Board shall post such plan on  
6    the Department of Education's website if practicable, and, in any case, shall make a hard  
7    copy of such plan available for public inspection and copying.

8    This plan shall include the objectives of public education in Virginia including the  
9    improvement and sustainability of student achievement, an assessment of the extent to  
10   which these objectives are being achieved, a forecast of enrollment changes and an  
11   assessment of the needs of public education in the Commonwealth. In the annual report  
12   required by § 22.1-18, the Board shall include an analysis of the extent to which these  
13   Standards of Quality have been achieved and the objectives of the statewide ~~six-year~~  
14   ~~comprehensive~~ plan have been met. The Board shall also develop, consistent with its ~~six-~~  
15   ~~year comprehensive~~ plan, a detailed, ~~six-year comprehensive, long-range~~ plan to integrate  
16   educational technology into the Standards of Learning and the curricula of the public  
17   schools in Virginia, including career and technical education programs. The Board shall  
18   review and approve the ~~six-year comprehensive~~ plan for educational technology and may  
19   require the revision of such plan as it deems necessary.

20   B. Each local school board shall ~~revise, extend and~~ adopt ~~biennially~~ a divisionwide ~~six-~~  
21   ~~year comprehensive, unified, long-range~~ plan ~~based on data collection, analysis, and~~  
22   ~~evaluation~~ that shall be developed with staff and community involvement. The  
23   comprehensive plan shall include, or be consistent with, all other divisionwide plans  
24   required by state and federal laws and regulations. Each local school board shall review  
25   the plan biennially and adopt any necessary revisions. Prior to the adoption of any  
26   divisionwide ~~six-year comprehensive~~ plan or revisions to the plan, each local school  
27   board shall post such plan or revisions on the division's Internet website if practicable,  
28   and, in any case, shall make a hard copy of the plan or revisions available for public  
29   inspection and copying and shall conduct at least one public hearing to solicit public  
30   comment on the divisionwide plan or revisions.

31   The divisionwide ~~six-year comprehensive~~ plan shall include, but shall not be limited to,  
32   (i) the objectives of the school division including the improvement and sustainability of  
33   student achievement; (ii) an assessment of the extent to which these objectives are being  
34   achieved; (iii) a forecast of enrollment changes; (iv) a plan for projecting and managing  
35   enrollment changes including consideration of the consolidation of schools to provide for  
36   a more comprehensive and effective delivery of instructional services to students and  
37   economies in school operations; (v) an evaluation of the appropriateness of establishing  
38   regional programs and services in cooperation with neighboring school divisions; (vi) a  
39   plan for implementing such regional programs and services when appropriate; (vii) a  
40   technology plan designed to integrate educational technology into the instructional  
41   programs of the school division, including the school division's career and technical  
42   education programs, consistent with the ~~six-year comprehensive~~ technology plan for  
43   Virginia adopted by the Board of Education; (viii) an assessment of the needs of the  
44   school division and evidence of community participation, including participation by

1 parents, in the development of the plan; ~~and~~ (ix) any corrective action plan required  
2 pursuant to § 22.1-253.13:3 ; and (x) a plan for parent and family involvement to include  
3 building successful school and parent partnerships.<sup>5</sup>

4 A report shall be presented by each school board to the public by November 1 of each  
5 odd-numbered year on the extent to which the objectives of the divisionwide ~~six-~~  
6 yearcomprehensive plan have been met during the previous two school years.

7 C. Each public school shall also prepare a biennial-comprehensive, unified, long-range  
8 plan, which the relevant school board shall consider in the development of its  
9 divisionwide ~~six-year~~ comprehensive plan.

10 D. The Board of Education shall, in a timely manner, make available to local school  
11 boards information about where current Virginia school laws, Board regulations and  
12 revisions, and copies of relevant Opinions of the Attorney General of Virginia may be  
13 located online.

---

<sup>5</sup> Added at the request of the Congress of Parents and Teachers to increase parent and family involvement.



1    **§ 22.1-253.13:7. Standard 7. School board policies.**

2    A. Each local school board shall maintain and follow up-to-date policies. All school  
3    board policies shall be reviewed at least every five years and revised as needed.

4    B. Each local school board shall ensure that policies developed giving consideration to  
5    the views of teachers, parents, and other concerned citizens and addressing the following:

6       1. A system of two-way communication between employees and the local school board  
7       and its administrative staff whereby matters of concern can be discussed in an orderly and  
8       constructive manner;

9       2. The selection and evaluation of all instructional materials purchased by the school  
10      division, with clear procedures for handling challenged controversial materials;

11      3. The standards of student conduct and attendance and enforcement procedures designed  
12      to provide that public education be conducted in an atmosphere free of disruption and  
13      threat to persons or property and supportive of individual rights;

14      4. School-community communications and community involvement;

15      5. Guidelines to encourage parents to provide instructional assistance to their children in  
16      the home, which may include voluntary training for the parents of children in grades K  
17      through three;

18      6. Information about procedures for addressing concerns with the school division and  
19      recourse available to parents pursuant to § 22.1-87;

20      7. A cooperatively developed procedure for personnel evaluation appropriate to tasks  
21      performed by those being evaluated; and

22      8. Grievances, dismissals, etc., of teachers, and the implementation procedure prescribed  
23      by the General Assembly and the Board of Education, as provided in Article 3 (§ 22.1-  
24      306 et seq.) of Chapter 15 of this title, and the maintenance of copies of such procedures.

25    A current copy of the school division policies shall be kept in the library of each school  
26    and in any public library in that division and shall be available to employees and to the  
27    public. If such policies are maintained online, school boards shall ensure that printed  
28    copies of such policies are available to citizens who do not have online access.

29    C. An annual announcement shall be made in each division at the beginning of the school  
30    year and, for parents of students enrolling later in the academic year, at the time of  
31    enrollment, advising the public that the policies are available in such places.

1   **§ 22.1-253.13:8. Compliance.**

2   The Standards of Quality prescribed in this chapter shall be the only ~~standards of quality~~  
3   Standards of Quality required by Article VIII, Section 2 of the Constitution of Virginia.

4   Each local school board shall provide, as a minimum, the programs and services, as  
5   provided in the ~~standards of quality~~ Standards of Quality prescribed above, with state and  
6   local funds as apportioned by the General Assembly in the appropriation act and to the  
7   extent funding is provided by the General Assembly.

8   Each local school board shall report its compliance with the Standards of Quality to the  
9   Board of Education annually. The report of compliance shall be submitted to the Board  
10   of Education by the chairman of the local school board and the division superintendent.

11   Noncompliance with the Standards of Quality shall be included in the Board of  
12   Education's annual report to the Governor and the General Assembly as required by §  
13   22.1-18.

14   As required by § 22.1-18, the Board of Education shall submit to the Governor and the  
15   General Assembly a report on the condition and needs of public education in the  
16   Commonwealth and shall identify any school divisions and the specific schools therein  
17   that have failed to establish and maintain schools meeting the existing prescribed  
18   ~~standards of quality~~ Standards of Quality.

19   The Board of Education shall have authority to seek school division compliance with the  
20   foregoing Standards of Quality. When the Board of Education determines that a school  
21   division has failed or refused, and continues to fail or refuse, to comply with any such  
22   Standard, the Board may petition the circuit court having jurisdiction in the school  
23   division to mandate or otherwise enforce compliance with such standard, including the  
24   development or implementation of any required corrective action plan that a local school  
25   board has failed or refused to develop or implement in a timely manner.

# Board of Education Agenda Item

Item: H

Date: September 22, 2004

**Topic:** Final Review of Proposed Revisions to the Board of Education's Bylaws Regarding Appointment and Operation of Advisory Committees

**Presenter:** Ms. Anne D. Wescott, assistant superintendent for policy and communications

**Telephone:** (804) 225-2403

**E-mail:** [awescott@mail.vak12ed.edu](mailto:awescott@mail.vak12ed.edu)

**Origin:**

☐ Topic presented for information only (no board action required)

☒ Board review required by

☐ State or federal law or regulation

☐ Board of Education regulation

☒ Other: Board of Education Bylaws

☒ Action requested at this meeting

☐ Action requested at future meeting: \_\_\_\_\_

**Previous Review/Action:**

☐ No previous board review/action

☒ Previous review/action

date: July 21, 2004

action: First review of the proposed revisions

**Background Information:** The Board of Education's bylaws, the procedures under which the Board of Education operates and conducts its business, were last amended in October 2001. Recently, the Board of Education has expressed interest in revising the bylaws to incorporate amendments regarding the appointment and operation of the various advisory committees that have been formed by the Board or by state or federal law or regulation.

Section 2 of Article Nine of the Board of Education's bylaws reads as follows:

Section 2. Advisory Committees. Advisory committees may be created by the Board for special purposes to include, but not be limited to, federal and state-mandated committees. An advisory committee shall be composed of persons who represent the views and interests of the general public

and who are known to be qualified to perform their duties. Personnel of the Department of Education may be appointed to the committee, as members or as consultants. All appointments to an advisory committee shall be made by the Board upon the recommendations of the Superintendent of Public Instruction.

Each committee shall be instructed as follows:

1. The length of time each member is being asked to serve;
2. The service the Board wishes the committee to render, the extent and limitations of its responsibilities;
3. The resources the Board will provide;
4. The approximate dates on which the Board wishes to receive reports; and
5. The responsibilities for the release of information.

The Board possesses legal powers and prerogatives that cannot be delegated or surrendered to others; therefore, all recommendations of an advisory committee must be submitted to the Board for action. The Board shall have sole power to dissolve any of its advisory committees and shall reserve the right to exercise this power at any time.

The Board of Education has the responsibility and authority to make appointments to its advisory committees, with the exception of the Advisory Commission for the Schools for the Deaf and Blind, for which the General Assembly makes all appointments (§ 22.1-346.1, Code of Virginia). The legislation establishing the Advisory Committee on Teacher Education and Licensure requires certain professional categories for appointees (e.g., middle school teacher, local school board member); however, the Board of Education appoints persons from lists of nominees for each available slot (§ 22.1-305.2, Code of Virginia). Federal law states that the state advisory panel on the education of children with disabilities must be composed of individuals involved in, or concerned with the education of children with disabilities (e.g., parents of children with disabilities, individuals with disabilities, teachers), and that a majority of the members be individuals with disabilities or parents of children with disabilities (20 USC § 1412 (a) (21)).

To secure nominations for advisory board vacancies, the Superintendent of Public Instruction distributes memoranda to division superintendents and other appropriate personnel requesting the names of prospective new members in specific membership areas. In addition, the presidents or executive directors of professional organizations are requested to submit nominees to serve as the group's representative and, where appropriate, business leaders are asked to submit nominees.

The advisory committees vary in size from 12 members to 24 members, and the terms of service vary from one year to four years. Most committee members are eligible to be re-appointed to a second consecutive term. Students serving on the Student Advisory Committee are selected through an application process and serve a one-year term and are not re-appointed. Most of the current advisory committees meet from three to four times each year.

**Summary of Major Elements:** The proposed changes to the bylaws are attached. The new language is underlined. The Board solicited public comment on the revisions to the bylaws and received five

responses. Changes in response to the Board's discussion on July 21, 2004 and in response to public comment are in bold and bracketed.

The purpose of the proposed amendments is to ensure the following:

1. Maximum opportunity for interested and qualified persons to be nominated and serve on an advisory committee;
2. Equity in terms of service for all members of advisory committees;
3. Consistency in the establishment and operation of the Board's advisory committees; and
4. Cost-effective and efficient operation of advisory committees.

Highlights of the proposed amendments are as follows, with changes since the first review in bold print:

Section 1. Purpose: The advisory committee will receive its charge from the Board of Education, and the committee is to operate within that charge. A committee will be dissolved if it does not conduct business for a 12-month period; however, the Board may re-constitute the committee, if necessary.

**In response to the Board's discussion on July 21, 2004, changes are proposed to specify that the Board shall annually direct advisory committees to undertake studies or assignments on specific topics and make recommendations as may be appropriate. The Board shall give a charge to each advisory committee at its annual planning meeting. The advisory committees shall report back to the Board on its findings and recommendations not later than the annual planning meeting the following year.**

Section 2. Operating Procedures: This document constitutes the operating procedures. Meetings are to be conducted as prescribed by Robert's Rules of Order. The Superintendent of Public Instruction determines the staff and funding resources. Advisory committees may have a Board member to serve as liaison.

Section 3. Membership: The Board determines the number of members within limits of state and federal law or regulation and appoints the members. Members may receive reimbursement for travel expenses in accordance with state travel guidelines.

Section 4. Term of Service: In the proposed amendments, the term of service is three years; unless otherwise specified in state or federal law or regulation or in the Board's bylaws. Members may serve a maximum of two consecutive three-year terms. Any member may be removed from service, as deemed appropriate by the Board.

**In response to public comment, a change is proposed to extend the term of service to three years, instead of two years as originally proposed. A member of an advisory committee currently serving a four-year term who is eligible to serve a second term would be eligible to serve a three-year term.**

Section 5. Advisory Committee Chair: The role of the committee chair is to conduct the meetings. The chair has voting privileges.

Section 6. Meetings: Meetings must announced in advance and be open to the public. Each member of the committee has one vote and proxy voting is not permitted.

Section 7. Official Papers: Records of meetings (e.g., minutes) must be maintained in the Department of Education and properly posted on the Internet, as required by state law. Records are available to the public in accordance with the Freedom of Information Act, and records must be maintained in accordance records retention requirements approved by the Library of Virginia.

Section 8. Effective Date: Article Sixteen becomes effective on October 1, 2004, and all appointments made following that date will be for the three-year term as stated in Section 4.

**Superintendent's Recommendation:** The Superintendent of Public Instruction recommends that the Board approve the proposed amendments to the bylaws.

**Impact on Resources:** N/A

**Timetable for Further Review/Action:** If approved by the Board, the changes to the bylaws will be effective on October 1, 2004.

# BYLAWS OF THE VIRGINIA BOARD OF EDUCATION

Adopted June 22, 2000  
Amended October 19, 2000  
Amended October 22, 2001  
*Amended* \_\_\_\_\_

In accordance with § 22.1-16 of the Code of Virginia of 1950, as amended, (the “Virginia Code”), the Virginia Board of Education (the “Board”) hereby adopts the following bylaws, effective as of the date and authorized signature below, for its own government and to promulgate such regulations as may be necessary to carry out its powers and duties.

## ARTICLE ONE: PURPOSE

In accordance with Article VIII, § 4, of the Constitution of Virginia, the general supervision of the public school system in the Commonwealth of Virginia shall be vested in the Board of Education.

## ARTICLE TWO: MEMBERSHIP

**Section 1. Composition.** The Board shall consist of nine members appointed by the Governor of Virginia, subject to confirmation by the General Assembly of Virginia.

**Section 2. Term of Membership.** Every appointment to the Board shall be for a term of four years, except that appointments to fill vacancies other than by expiration of a term shall be for the unexpired terms. No member of the Board shall be appointed to more than two consecutive four-year terms.

## ARTICLE THREE: OFFICERS

**Section 1. President.** The President of the Board shall be elected by a majority of the Board members, shall preside over meetings of the Board, and shall have all powers and duties as necessary to fulfill the role of chief executive of the Board and its presiding officer and as may be, from time to time, conferred or prescribed by the Board. The President shall exercise supervision and direction over the Board's goals and affairs and discharge all duties generally pertaining to such office as the executive head of an organization of this character, subject to the control of the Board members. The President shall appoint members of the Board to serve on standing committees and appoint special committees with non-Board members as deemed necessary. The President shall be elected from the Board membership for a term of two years. The President may succeed himself or herself. The election of the President shall be by a recorded vote.

**Section 2. Vice President.** The Vice President shall have such powers and perform such duties as may from time to time be conferred or prescribed by the Board. In the absence of the President, the Vice President shall discharge all such executive duties of the office of President. The Vice President shall be elected from the Board membership for a term of two years. The Vice President may succeed himself or herself. The election of the Vice President shall be by a recorded vote.

**Section 3. Secretary.** In accordance with § 22.1-23 of the Virginia Code, the Superintendent of Public Instruction shall serve as Secretary of the Board and shall perform such other duties as the Board may prescribe. The Secretary shall attend all meetings of the Board and record all votes and the proceedings of the meetings in a book to be kept for that purpose and shall perform like duties for any other committees, if required. The Secretary shall give, or cause to be given, notice of all meetings of the Board, and shall perform such other duties as may from time to time be prescribed by the Board or the President, under whose supervision he or she shall act. The Secretary shall have custody of the seal of the Board, and the Secretary, or an Assistant Secretary, shall have authority to affix the same to any instrument requiring it, and when so affixed, the seal may be attested by his or her signature or by the signature of such Assistant Secretary. The Board may give general authority to any other officer to affix the seal of the Board and to attest the affixing thereof by his or her signature.

**Section 4. Other Officers.** Additional officers, in the discretion of the Board, may be elected from time to time to perform such duties and undertake functions designated by the Board.

## **ARTICLE FOUR: MEETINGS**

**Section 1. Annual Meeting.** The first meeting after February 1 shall be designated as the annual meeting of the Board. At the annual meeting, the members shall elect the President and Vice-President for any expired terms, in even-numbered years. At the annual meeting, the members shall also consider any other business that may properly come before the Board.

**Section 2. Regular Meetings.** Prior to and no later than the annual meeting, the Board shall adopt a tentative schedule for regular meetings for the applicable calendar year. Such schedule shall be subject to the change, alteration, or adjustment by the President as he or she deems appropriate, to accommodate the operation of the Board.

**Section 3. Special Meetings.** A special meeting of members may be called by the President in his or her sole discretion, and shall be called by the President (or in the absence of the President, the Vice President or Secretary, upon written request to the Secretary by five or more members of the Board. No business other than that specified in the notice of the meeting shall be transacted at any special meeting of the Board.



**Section 4. Place of Meetings.** Annual and regular meetings of the Board shall ordinarily be held at the office of the Superintendent of Public Instruction. The Board may hold annual and regular meetings at such other place or places, for any time period, within the Commonwealth of Virginia, as designated in advance by the President, or in the absence of the President, by the Vice President.

**Section 5. Adjournment.** Any duly called meeting of the Board may be adjourned to a later time and place, determined by the Board members present, whether such members constitute a quorum for transaction of business, provided that such time and place are announced at the meeting. No other notice of the adjourned meeting shall be required.

**Section 6. Voting Proxies.** At meetings of the Board, all members present shall be entitled to exercise voting rights on all matters. Members not present at a meeting shall not be entitled to vote by proxy.

**Section 7. Notices of Meetings.** Written notice stating the place, day, and hour of any meeting of the members, and, in case of a special meeting, the purpose or purposes for which the meeting is called, shall be given to each Board member not less than 10 days before the date of the meeting by or at the direction of the President, or the Secretary, or the persons calling the meeting. A notice shall be deemed duly given to a Board member when it is: (1) adopted by the Board as part of its tentative regular meeting schedule and is not subsequently changed or altered in accordance with Article 4, Section 2 above, or (2) delivered in person or mailed, postage-prepaid, to the address of such Board member as it appears on the records of the Board, or (3) when it is sent via telecopier or electronic mail transmission to the telecopier number or electronic mail address of such Board member, and the sender has received a confirmation from the Board member that such transmission has been received. Written notice stating the place, day, and hour of any meeting of the members of the board shall be provided to the public at least three working days prior to the meeting. The notice shall state whether or not public comments will be received at the meeting and, if so, the approximate point during the meeting when public comments will be received.

**Section 8. Voting and Quorum.** Each member of the Board shall be entitled to one vote with respect to each matter voted on by the Board. A majority of the members of the Board shall constitute a quorum for the transaction of business. Except as expressly provided otherwise in these bylaws, the vote of a majority of the Board members present at any meeting at which a quorum is present shall be the act or resolution of the Board.

**Section 9. Conflict of Interest.** In any case where a member has a personal interest in a particular vote of the Board, such member(s) shall excuse himself or herself from the vote of the Board.

**Section 10. Waiver.** Whenever any notice is required to be given under the provisions of law or these bylaws, a written waiver thereof, signed by the person or persons entitled to

such notice and filed with the records of the meeting, whether before or after the time stated therein, shall be conclusively deemed to be equivalent to such notice. In addition, any member who attends a meeting of the Board without protesting at the commencement of the meeting such lack of notice shall be conclusively deemed to have waived notice of such meeting.

## **ARTICLE FIVE: EXECUTIVE SESSIONS**

The Board may decide to go into executive session at any of its meetings in accordance with the laws of the Commonwealth of Virginia. Prior to such action, the Board must adopt a motion to go into executive session. The Board shall discuss only matters in an executive session as specified by the Virginia Freedom of Information Act or other applicable law. The Board may take no final action on any item in executive session. At the conclusion of any executive session, the Board must reconvene in public session and take a vote of the membership to come out of executive session.

## **ARTICLE SIX: RESOLUTIONS OF THE BOARD**

All resolutions adopted by the Board shall be signed by the President and shall remain in effect until repealed, amended, or otherwise suspended by subsequent resolution. The Secretary shall maintain an appropriate record of all Board resolutions in effect and make such record available to the Board and the public upon request.

## **ARTICLE SEVEN: AGENDA FOR MEETING**

The Board will have a published agenda for all regularly scheduled public meetings. Items may be placed on the agenda by the Superintendent of Public Instruction or any member of the Board through the President of the Board. Final decision on the placement of items on the agenda will be made by the President of the Board.

## **ARTICLE EIGHT: CONSENT AGENDA/BOARD REVIEW PROCEDURES**

**Section 1. Consent Agenda.** The President or presiding officer may place any item on the consent agenda for the applicable Board meeting. Items may also be placed on the consent agenda by majority vote of the Board. The consent agenda shall be adopted by a majority vote of the Board. Such item may be removed from the consent agenda by any Board member wishing to have it placed on the regular Board meeting agenda.

**Section 2. Action on Items.** Items that are not placed on the consent agenda but which require the Board's action must be reviewed by the Board at two separate meetings. Such review shall consist of a first review and a final review. Action may be taken on an item

when it is brought to the Board for final review. The Board may waive the requirement for two separate reviews of any agenda item by majority vote. The materials, including the boiler plate and any appropriate background materials, for each item requiring Board action must be provided to all members not less than seven days before the meeting in which first review has been scheduled. The Board may waive this requirement for advance receipt of materials only by unanimous vote of the Board members present.

## **ARTICLE NINE: COMMITTEES**

**Section 1. Standing and Special Committees.** The Board may create standing committees composed of Board members and non-Board members, as it shall deem appropriate, and impose upon such committee or committees such functions and duties, and grant such rights, powers, and authority as the Board shall prescribe. The President shall appoint all members to serve on standing committees. Special committees of the Board may be established and appointed by the President for specific assignments. All special committees shall report their findings and recommendations to the Board. All special committees shall dissolve upon the completion of their stated assignment or by act of the President.

**Section 2. Advisory Committees.** Advisory committees may be created by the Board for special purposes to include, but not be limited to, federal and state-mandated committees. An advisory committee shall be composed of persons who represent the views and interests of the general public and who are known to be qualified to perform their duties. Personnel of the Department of Education may be appointed to the committee, as members or as consultants. Unless otherwise prescribed by state or federal law or regulations, all Appointments to an advisory committee shall be made by the Board upon the recommendations of the Superintendent of Public Instruction.

Each committee shall be instructed as follows:

1. The length of time each member is being asked to serve;
2. The service the Board wishes the committee to render, the extent and limitations of its responsibilities;
  1. The resources the Board will provide;
  2. The approximate dates on which the Board wishes to receive reports; and
3. The responsibilities for the release of information.

The Board possesses legal powers and prerogatives that cannot be delegated or surrendered to others; therefore, all recommendations of an advisory committee must be submitted to the Board for action. The Board shall have sole power to dissolve any of its advisory committees and shall reserve the right to exercise this power at any time.

Advisory committees to the Board of Education shall be established and operate in accordance with the procedures specified herein under Article Sixteen.

## ARTICLE TEN: STUDENT ADVISORY COMMITTEE

The Board shall have a standing Student Advisory Committee consisting of twelve students, the President, the Secretary and two members of the Board appointed by the President. Student members shall be selected by a committee of the Board appointed by the President. Such student membership shall consist of one high school student from each of the eight Superintendents' Regions in the Commonwealth and four middle school students selected at-large from the Commonwealth. The President or a designated Board member shall preside over all meetings of the Student Advisory Committee, which shall meet at least three times a year or as prescribed by the President or the Board designee, with one meeting to coincide with a regularly scheduled Board meeting.

## ARTICLE ELEVEN: PUBLIC PARTICIPATION

Citizens of the Commonwealth are encouraged to attend all Board meetings, except executive sessions as defined by the Freedom of Information Act, and may record the proceedings in writing or by using a recording device. The Board is not required to allow citizens to speak at every meeting, but will seek to do so as appropriate. Opportunities will be provided, at the discretion of the Board President, for individuals or citizens representing a group or groups to appear on the agenda of a regular meeting or work session of the Board. Requests to appear before the Board or one of its committees shall be made in writing 10 days before a scheduled meeting of the board and must include the subject to be discussed and the name of the speaker. The 10 days may be waived by the President or committee chairperson if the item is on the agenda. In honoring such requests, the Board will limit such presentations to three minutes for individuals and five minutes for citizens representing a group, unless an extension is granted by the President or committee chairperson.

## ARTICLE TWELVE: BOARD OPERATIONS

**Section 1. Promulgation and Adoption of Regulations.** The Board shall promulgate such regulations as may be necessary to carry out its powers and duties. Regulations recommended for adoption by the Board shall be promulgated in accordance with the Administrative Process Act and Virginia Register Act, as well as any applicable Executive Order by the Governor.

**Section 2. Contracts.** The President and Secretary of the Board shall sign all contracts and agreements entered into by the Board unless the Board delegates to a specific person other than these two officers.

**Section 3. Official Papers.** All official records of the Board shall be open for inspection. Further, the official records of the Board shall be kept on file in the Department of

Education for a period of five years, after which the record shall be maintained in accordance with the Records Retention and Disposition Schedule prescribed by the Library of Virginia.

**Section 4. Compensation and Expenses.** Members of the Board may receive a per diem, or portion thereof, in an amount set by the General Assembly while attending regular and special meetings of the Board or while participating in Board-related activities pursuant to § 2.2-2813 of the Code of Virginia. The members of the Board may receive reimbursement for reasonable expenses incurred while attending meetings of the Board or any committee thereof, or in performing duties as a member of the Board. Board members are encouraged to attend at least one regional or national meeting per year related to the responsibilities of the Board of Education. Reimbursement will be available for expenses to attend such meetings.

## **ARTICLE THIRTEEN: AMENDMENTS**

These bylaws may be altered, amended, or repealed only by a vote of at least seven members of the Board after a first and final review has been completed in two separate meetings. The requirement for a first and final review at two separate meetings may not be waived by the Board, unless such waiver is approved by every member of the Board.

## **ARTICLE FOURTEEN: MISCELLANEOUS**

**Section 1. Addresses.** The addresses and/or telephone numbers used in any notice given under the bylaws shall be those appearing on the books of the Board, and it shall be the individual member's responsibility to ensure that the Secretary has the correct address.

**Section 2. Robert's Rules.** Except as otherwise stated herein, all meetings of the Board shall be governed by the current edition of Robert's Rules of Order.

**Section 3. Gender.** All personal pronouns used in these bylaws, whether used in the masculine, feminine, or neuter gender, shall include all other genders, the singular shall include the plural, and vice versa, as the context may require.

**Section 4. Repeal of All Previous Acts.** All previous enactments of the Board's bylaws prior to the date set forth below are hereby repealed and declared null and void.

**Section 5. Copy to All Members.** The Board hereby directs the Secretary to provide all Board members with current copy of these bylaws and all amendments thereto.

## ARTICLE FIFTEEN: REVISING THE STANDARDS OF QUALITY

The Board and its respective standing committee shall determine the need for a review of the Standards of Quality from time to time but no less than once every two years. The Board shall establish, by resolution, the process for such review. The Board shall consider making changes, if any, to the Standards of Quality based upon that review.

The results of the Board's review and any recommended changes shall be communicated to the Governor and also to the Chairmen of the House Committee on Education, the House Committee on Appropriations, the Senate Committee on Education and Health, and the Senate Committee on Finance.

## **ARTICLE SIXTEEN: ADVISORY COMMITTEE OPERATIONS**

**Section 1. Purpose.** *For any advisory committee established under Article Nine above, the Board shall specify the purpose of the advisory committee, and shall specify the extent and limitations of the committees' responsibilities. Such purpose shall be in accordance with the Board of Education bylaws and any applicable state or federal law or regulation. Advisory committees shall act within the scope of authority specified by the Board. All advisory committee members acknowledge, by virtue of their service on the advisory committee, that their authority with respect to work of the advisory committee is limited to the matters assigned to it by the Board and by applicable state or federal law or regulation.*

*The Board ~~[may shall annually]~~ direct advisory committees to undertake studies or assignments on specific topics and to make recommendations related to specific issues~~]. The Board shall give a charge to each advisory committees at its annual planning meeting and]~~ as the Board president deems necessary and appropriate. The advisory committees shall report back to the Board on its findings and recommendations of those topics and issues identified by the Board for its review within the timeframe requested by the Board~~]~~ **but not later than the annual planning meeting the following year]**.*

*Each advisory committee shall make an annual report to the Board of Education. The annual report shall include the findings and recommendations of those issues and topics identified by the Board for deliberation by the committees.*

*The Board may dissolve an advisory committee at any time, unless the advisory committee is required by state or federal laws or regulations. An advisory committee shall be deemed dissolved if it has conducted no business for 12 or more consecutive months. At its discretion, however, the Board may reconstitute an advisory committee that has been dissolved.*

**Section 2. Operating Procedures.** The operating procedures outlined in this article shall govern the proceedings of all advisory committees, unless otherwise provided in state or federal law or regulations. All proceedings of the Committee meetings shall be as prescribed by Robert's Rules of Order.

The Superintendent of Public Instruction shall determine the staff and funding resources needed to conduct the business of the advisory committee.

The Board, at its discretion, may appoint a member of the Board to serve as liaison to the advisory committee.

**Section 3. Membership.** The Board shall determine the number of members to serve on an advisory committee, and shall appoint the members of the committee, as specified in Board bylaws under Article Nine, Section 2, except as provided by state or federal law or regulation. Nominations for all vacant positions will be solicited as widely as practicable and on forms provided by the Department of Education.

Members of advisory committees shall not receive compensation for their service, but may be reimbursed for travel expenses in accordance with state travel guidelines set forth by the Department of Accounts.

**Section 4. Term of Service.** Appointments to an advisory committee shall be for a term of ~~[two three]~~ years. Members of an advisory committee may be appointed to a second consecutive ~~[two three]~~-year term, but shall not be eligible to serve for more than ~~[four six]~~ consecutive years[; except that a member of an advisory committee who is serving a four-year term on October 1, 2004 and who is eligible for appointment to a second term would be eligible to be appointed to a three year second term]. A member filling the unexpired term of a member who resigned from the committee may be appointed to another consecutive ~~[two three]~~-year term. However, members of the Student Advisory Committee shall serve a term of one year, in accordance with Article Ten of the Board's bylaws. Any member of an advisory committee may be removed by the Board, at any time, with or without cause.

**Section 5. Advisory Committee Chair.** The role of the committee chair is to conduct the meetings. The initial chair of an advisory committee shall be appointed by the President of the Board or, at the President's discretion, co-chairs may be appointed. Thereafter, upon any expiration of term or vacancy of such positions, the chair or co-chairs shall be elected by the advisory committee according to Robert's Rules of Order. No co-chair may act on any matter pertaining to this joint office without the consent of the other co-chair. The chair shall have individual voting rights on all matters before the advisory committee and shall be responsible to present the findings and recommendations of the advisory committee at least annually and at other times

requested by the Board. The committee may elect a vice chair, in accordance with Robert's Rules of Order, who presides if the chair is unable to attend the meeting.

**Section 6. Meetings.** All meetings of an advisory committee shall be held in a location and in a facility that is accessible to the public, as provided by the Freedom of Information Act (§ 2.2-3700 et seq., Code of Virginia). The committee chair shall work with Department of Education staff assigned to serve as a resource to the committee, and with the executive assistant to the Board of Education to ensure that the public is notified of all meetings in accordance with the Freedom of Information Act.

There shall be a published agenda for all meetings set by committee chair or co-chairs, with the assistance of Department of Education staff and with the Board liaison to the committee, if applicable.

A majority of the members of the advisory committee shall constitute a quorum for the transaction of business. The vote of a majority of the advisory committee members present at any meeting at which a quorum is present shall be the act of the advisory committee. Each member of an advisory committee shall be entitled to one vote with respect to any matter voted on by the advisory committee. Members not present at a meeting shall not be entitled to vote by proxy.

In any case where a member has a personal interest in a particular vote of the advisory committee, such member(s) shall excuse themselves and shall not vote on that matter.

**Section 7. Official Papers.** All official records of advisory committees shall be kept on file in the Department of Education and shall be open to inspection as provided by the Freedom of Information Act, § 2.2-3704 of the Code of Virginia. All records shall be maintained in accordance with the Records Retention and Disposal Schedule prescribed by the Library of Virginia.

Minutes of all meetings shall be filed electronically, as required by § 2.2-3707.1 of the Code of Virginia within 10 business days of any meeting the executive assistant to the Board of Education at the Department of Education.

**Section 8. Effective Date.** Article Sixteen of the bylaws of the Board of Education shall become effective beginning on October 1, 2004. Section 4 of Article Sixteen shall become effective with all appointments made by the Board of Education under this Article on or after October 1, 2004.

The undersigned, being the duly elected President of the Virginia Board of Education, hereby certifies that the foregoing bylaws were duly adopted by its members as of the date and signature below.



Adopted in the Minutes of the Virginia Board of Education

June 22, 2000

Amended October 19, 2000

Amended October 22, 2001

*Amended* \_\_\_\_\_

# Board of Education Agenda Item

Item: I

Date: September 22, 2004

Topic: Final Review of Proposed Modifications to School-level Academic Review Process

Presenter: Dr. Cheri Magill, Director of Accreditation

Telephone Number: 804-225-2708 E-Mail Address: cmagill@mail.vak12ed.edu

## Origin:

     Topic presented for information only (no board action required)

X Board review required by  
     State or federal law or regulation  
X Board of Education regulation  
     Other:                     

X Action requested at this meeting

     Action requested at future meeting:

## Previous Review/Action:

X No previous board review/action

X Previous review/action  
date July 21, 2004  
action Board accepted item for First Review

## Background Information:

For the 2004–2005 and 2005–2006 accreditation ratings years, the *Regulations Establishing Standards for Accrediting Public Schools in Virginia* (SOA) require a school to be rated “Accredited with Warning (in specified academic area or areas)” if its pass rate performance on any SOL test is below any of the full accreditation benchmarks established by the Board (8 VAC 20-131-300.C.4). Any school rated Accredited with Warning must undergo an academic review in accordance with guidelines adopted by the Board (8 VAC 20-131-340.A). It is the responsibility of the Department of Education to develop this academic review process for the Board’s approval (8 VAC 20-131-310.A). Additionally, a warned school:

- 1) is expected to develop, implement and monitor the implementation of a three-year school improvement plan based upon the results of the academic review (8 VAC 20–131-310.F; 8

VAC 20-131-310.H); and

- 2) is expected to implement a proven instructional method in English and/or mathematics, if warned in either or both of those areas (8 VAC 20-131-310.B).

The Board must adopt and approve all policies and formats for the submission of annual reports related to academic reviews (8 VAC 20-131-310.H).

Each year, the Board has reviewed and approved additions and modifications to academic review processes. In July 2003, the Board approved minimal changes designed to provide a more “prescriptive” approach to better meet the needs of warned schools.

Earlier guidelines approved by the Board on November 30, 2000, make provisions for local school boards to request approval of a locally-developed review in lieu of having a review conducted by the Department of Education. No school divisions conducted their own reviews for the past two school years.

### **Summary of Major Elements**

Forty-seven schools were rated “Accredited with Warning” and received academic reviews during the 2003-2004 school year. An increase in the number of warned schools is projected for the 2004-2005 school year based upon the phasing out of provisional accreditation ratings. A large number of these schools are likely to be rated “Accredited with Warning” for the first time and may have pass rates in content areas approaching the pass rates needed to be fully accredited. Other schools may be participating in targeted school improvement initiatives that involve ongoing technical assistance.

To better address the individual needs of schools in 2004-2005, modifications to the School-level Academic Review process are necessary. Such modifications will maintain the “prescriptive” approach approved by the Board in July, 2003, meaning that the process is tailored to meet the unique needs and circumstances of the school under review. The attached document describes the School-Level Academic Review process currently in use and the proposed modifications. Proposed modifications to the process are summarized in Table 1 of this document.

The modifications include a tiered approach to the academic review process that differentiates the type of review a warned school receives based on the school’s accreditation history, federal adequate yearly progress (AYP) rating, content areas warned, Title I status, and special needs and circumstances of the school. A three-tiered approach to implementing the school-level academic review process will make a modified process available to schools accredited with warning that meet the following characteristics:

- The school has NOT been accredited with warning in the same content area in either of the past two years; and
- The school is NOT warned in three or more content areas; and
- The school is NOT a Title I school warned in English or mathematics that did not meet AYP requirements in the content area(s).

Department staff will evaluate the effectiveness of the modifications throughout the school year and will report to the Board annually on the effectiveness.

**Superintendent's Recommendation:** The Superintendent of Public Instruction recommends that the Board accept for final review the proposed modifications to the School-Level Academic Review process.

**Impact on Resources:** The 2004 General Assembly appropriated funds to conduct the academic reviews.

**Timetable for Further Review/Action:** None

# **SCHOOL-LEVEL ACADEMIC REVIEW PROCESS**

## **Adopted by the Board of Education: July, 2003**

### **PURPOSE OF THE SCHOOL-LEVEL ACADEMIC REVIEW**

The School-Level Academic Review is designed to help schools identify and analyze instructional and organizational factors affecting student achievement. The focus of the review process is on the SYSTEMS, PROCESSES, AND PRACTICES that are being implemented at the school and division levels—the focus is NOT on people. Specifically, information is gathered that relates to the following areas of review:

- Alignment of the local curriculum with state learning standards
- Use of time and school scheduling practices
- Use of data to make instructional and planning decisions
- Professional development opportunities provided for staff
- School improvement planning
- Implementation of an instructional method or model/program for schools previously warned in English or mathematics.
- Organizational systems and processes
- School culture

These areas of review provide a framework for the School-Level Academic Review process. Within each of these areas, indicators reflecting effective practices have been identified. These indicators are based on state laws and board regulations, as well as on research-based practices found to be effective in improving student achievement. The review team collects and analyzes data that evidence the school's status in implementing these practices. Based on their findings, the team provides the school and the division with information that can be used to develop, revise, and implement the school's three-year school improvement plan (SIP), as required by the SOA.

The School-level Academic Review process is designed to be “prescriptive” in nature, meaning that the process is tailored to meet the unique needs and circumstances presented by the school. For this reason, the focus of a school's On-Site Review and technical assistance is on those areas identified by the lead reviewers as the primary areas of need for the school.

Board of Education guidelines allow division superintendents to request that they be allowed to conduct their own reviews of their schools, using their own established processes. Such requests are sent to the superintendent of public instruction, and the information sent must show that the process they intend to use encompasses the School-Level Academic Review process used by the Department of Education and approved by the Board of Education.

## OVERVIEW OF THE SCHOOL-LEVEL ACADEMIC REVIEW PROCESS

The School-Level Academic Review process consists of four types of visits conducted by a team of educators over the course of a school year. These visits are briefly described in the table below:

<i>Type of Visit</i>	<i>Purpose</i>	<b>Projected Timeframe</b>	<b>Persons Responsible</b>
<b>I. Initial Visit</b>	<ul style="list-style-type: none"> <li>Determine current status of improvement efforts</li> <li>“Prescribe” on-site review</li> </ul>	1 day, fall	Lead Reviewers
<b>II. On-site Review</b>	<ul style="list-style-type: none"> <li>Assess instructional and organizational practices, through document review, observations and interviews</li> <li>Identify areas of strength and areas for improvement</li> <li>Establish “essential actions” and timelines for continued improvement</li> </ul>	3-5 days, late fall—winter	Academic Review Team
<b>III. Follow-Up Visits</b>	<ul style="list-style-type: none"> <li><i>Technical Assistance</i> <ul style="list-style-type: none"> <li>Facilitate incorporation of “essential actions” into school improvement plan</li> <li>Facilitate and support implementation of “essential actions”</li> </ul> </li> </ul>	2-8 days total, winter--spring	Coordinated by Lead Reviewer(s); (Technical assistance providers may vary)
	<ul style="list-style-type: none"> <li><i>Progress Check</i> <ul style="list-style-type: none"> <li>Determine progress of school in implementing “essential actions”</li> </ul> </li> </ul>	Periodic, 1-day, about every 4-6 wks	Lead Reviewer(s)
<b>IV. Final Visit</b>	<ul style="list-style-type: none"> <li>Identify significant changes in practice and recognize accomplishments</li> <li>Assess status of school improvement planning efforts</li> <li>Suggest “next steps” for continued improvement</li> </ul>	1 day, spring	Lead Reviewer(s)

Following the On-Site Review and Final Visits, school and division personnel are asked to complete evaluations of the academic review process. These data are compiled by the office of accreditation and used to monitor and refine the review process to ensure that the needs of schools are being met.

## **A. THE ACADEMIC REVIEW TEAM**

### **Team Leaders**

Two lead reviewers are assigned to each school rated accredited with warning. Typically, one leader is an independent contractor and the other is a DOE staff member. The lead reviewers work together to coordinate and conduct the review process in the school; however, the independent contractor assigned as the “lead” is primarily responsible for coordinating review schedules and activities with review team members and the school. This person is also responsible for facilitating the data collection and analysis process during on-site visits, entering the team’s findings into the academic review database, and developing and distributing reports.

The office of accreditation provides the school principal and the division superintendent with the names of the team leaders in advance of the review. The superintendent may, with good cause, request the replacement of a team member.

The lead reviewers conduct the Initial Visit together. They also lead the team during the On-Site Review Visit. The lead independent contractor, in consultation with the DOE lead reviewer, is responsible for coordinating and conducting Follow-Up Visits and the Final Visit.

### **Review Team**

For the On-Site Review Visit, the review team is expanded to include additional independent contractors, T/TAC staff and other DOE staff members, based upon the specific needs of each school. Team members are experienced educators selected from a cadre of independent contractors and DOE staff meeting specific criteria established by the department. All team members have participated in a training program and have had experience reviewing curriculum and analyzing data. At least one member of the Academic Review Team will have expertise in one or more of the content areas in which the school is warned.

## **B. EVALUATION OF THE SCHOOL-LEVEL ACADEMIC REVIEW PROCESS**

The principal and all teachers and central office personnel that were involved in the review activities are asked to complete evaluations. The data from the evaluations provide the office of accreditation with critically important information about the effectiveness of the Academic Review process. These data help guide future revisions to data collection forms and the process and timelines for conducting future Academic Reviews.

**MODIFICATIONS TO THE  
SCHOOL-LEVEL ACADEMIC REVIEW PROCESS,  
BEGINNING WITH THE 2004-2005 SCHOOL YEAR  
Proposed, September 22, 2004**

The modifications of the academic review process maintain the purpose and prescriptive nature of the current School-level Academic Review process. The modifications include a tiered approach to the academic review process that differentiates the type of review a warned school receives based upon the school's accreditation history, federal adequate yearly progress rating, content areas warned, Title I status, and special needs and circumstances of the school. Educators trained in the process will conduct the reviews, collecting data and analyzing it according to established guidelines. Reports of Findings will continue to document areas of strength, areas for improvement, and essential actions that schools must implement. Schools will develop, implement, and monitor the implementation of school improvement plans.

A three-tiered approach to implementing the school-level academic review process will make a modified process available to schools accredited with warning that meet the following characteristics:

- The school has NOT been accredited with warning in the same content area in either of the past two years; and
- The school is NOT warned in three or more content areas; and
- The school is NOT a Title I school warned in English or mathematics that did not meet AYP requirements in the content area(s).

The modifications allow school division personnel trained in the School-level Academic Review process to conduct the academic reviews with oversight by a Department of Education staff member or a contracted educational consultant experienced in the School-level Academic Review process. Modifications also allow for school division oversight of school improvement plan development and implementation.

Modifications may also apply to schools receiving technical assistance and ongoing support through other Department of Education initiatives. The extent to which the Academic Review process will be modified for these schools will take into account the type of assistance being provided these schools through such initiatives. The Superintendent of Public Instruction may approve other academic review tiers or other department initiatives as alternatives to approved review processes dependent upon the special needs and circumstances of the warned school.

These modifications will be reviewed annually. The Department of Education will continue to report annually to the Board on the findings of the School-level Academic Reviews and on the effectiveness of the Academic Review processes being used. Implementation of the School-level Academic Review process will be monitored and evaluated throughout the school year.

The three tiers of implementing the School-level Academic review process are described in Table 1.



Table 1: Description of School-Level Academic Review Tiers Beginning with the 2004-2005 School Year

Tier	Characteristics of Schools Warned in the Current Year (beginning 2004-2005)*	Academic Review Team Members provided by DOE	Academic Review Team Members provided by Division (certified in the process)	Three year School Improvement Plans and annual status report	Instructional Model Program in English and/or Mathematics
Tier I: <b>C.State Directed</b>  (current model)	<p><b>Any school</b> warned in the same content area in either of the past two years</p> <p>OR</p> <p><b>Any school</b> warned in 3 or more content areas</p> <p>OR</p> <p><b>Title I school</b> warned in English and/or mathematics that DID NOT meet requirements in the content area(s) to make AYP under NCLB</p>	<p>Follows current process:</p> <ul style="list-style-type: none"> <li>• Team Leader</li> <li>• Content –area specialist(s) (DOE or vendor)</li> <li>• Special education team member (T/TAC)</li> <li>• Team members</li> </ul>	None	Follows requirements of <b>8 VAC 20-131-310 F.</b>	Follows requirements of <b>8 VAC 20-131-310 B.C.D.E.</b>
Tier II: <b>Local Assistance</b>	<p><b>Title I school</b> warned in English and/or mathematics that DID meet requirements in the content area(s) to make AYP under NCLB</p> <p>OR</p> <p><b>Non-Title I school</b> warned in English and/or mathematics that DID NOT meet requirements in the content area(s) to make AYP under NCLB</p> <p>OR</p> <p><b>Any school</b> warned in science and/or history social sciences with a pass rate more than 14 points lower than that required for full accreditation</p>	<ul style="list-style-type: none"> <li>• Team Leader</li> <li>• Content Specialist(s) (DOE or independent contractor)</li> <li>• Special education team member (T/TAC)</li> </ul>	<ul style="list-style-type: none"> <li>• Team members</li> </ul>	<p>Division superintendent certifies that SIP meets requirements of <b>8 VAC 20-131-310 G.</b></p> <p>AND</p> <p>Division staff monitors plan development, implementation, and results.</p>	Division superintendent may request a waiver under <b>8 VAC 20-131-330</b>
Tier III: <b>Locally Directed</b>	<p><b>Non-Title I school</b> warned in English and/or mathematics that DID meet requirements in the content area(s) to make AYP under NCLB</p> <p>OR</p> <p><b>Any school</b> warned in science and/or history social sciences with pass rate within 14 points of that required for full accreditation</p>	<ul style="list-style-type: none"> <li>• Team Leader</li> </ul>	<ul style="list-style-type: none"> <li>• Content specialist(s)</li> <li>• Team members</li> </ul>	<p>Division superintendent certifies that SIP meets requirements of <b>8 VAC 20-131-310 G.</b></p> <p>AND</p> <p>Division staff monitors plan development, implementation, and results.</p>	Not Applicable

\*The Superintendent of Public Instruction may approve other School-level Academic Review tiers or other department initiatives as alternatives to approved review processes dependent upon the special needs and circumstances of the warned school.

# Board of Education Agenda Item

Item: J

Date: September 22, 2004

**Topic:** First Review of a Request for Approval of an Alternative Accreditation Plan from the Fairfax County Public Schools

**Presenter:** Mr. Charles W. Finley, Assistant Superintendent for Educational Accountability  
Dr. Jack Dale, Division Superintendent, Fairfax County Public Schools  
Mrs. Teresa M. Zutter, Director of Alternative School Programs, Fairfax County Public Schools

Telephone Number: (804) 786-9421 E-Mail Address: cfinley@pen.k12.va.us

## Origin:

       Topic presented for information only (no board action required)

  X   Board review required by

       State or federal law or regulation

  X   Board of Education regulation

       Other: \_\_\_\_\_

       Action requested at this meeting   X   Action requested at future meeting: October 28, 2004  
(date)

## Previous Review/Action:

  X   No previous board review/action

       Previous review/action

date \_\_\_\_\_

action \_\_\_\_\_

## Background Information:

The *Regulations Establishing Standards for Accrediting Public Schools in Virginia* adopted by the Board in July 2000. Section 8 VAC 20-131.280.D. of the standards states: "Special purpose schools such as regional, special education, alternative, or career and technical schools that serve as the student's school of principal enrollment shall be evaluated on standards appropriate to the programs offered in the schools and approved by the Board prior to August 1 of the school year for which approval is requested. Any student graduating from a special purpose school with a Standard, Advanced Studies, or Modified Standard Diploma must meet the requirements prescribed in 8 VAC 20-131-50."

In November 2001 the Department of Education issued informal guidance to school divisions to assist them with the development of alternative accreditation plans that involve consideration of the following questions:

1. What is different about the student population and/or the school that the requirements of the accreditation standards cannot be met? Which of the accrediting standards are not appropriate to the school and why?
2. What are the criteria/standards for students to be admitted to the school?
3. What is the mission of the school? What are the goals for students in the school? (NOTE: The goals must address 100 percent of the students in the school.)
4. What objective data is the school board willing to be evaluated by in order to show that the mission is being met?

The proposal for the alternative plan also must show that all federal requirements are being met (e.g., NCLB, Perkins, Nutrition, Special Education, etc.).

Staff of the Department of Education has since developed a template for school divisions to use and criteria for evaluation of proposals before the proposals are submitted for formal review by the Board. Copies of the template and criteria are attached for the Board's information. This request has been reviewed and found to be in substantial agreement with the internal criteria adopted by the Department.

### **Summary of Major Elements:**

The school board of Fairfax County is proposing an alternative accreditation plan for three alternative high schools: Bryant Alternative High School, Mountain View School, and Pimmit Hills School. All of the schools offer programs designed to help students whose life circumstances could result or have resulted in an interruption of their education or in their dropping out of school. Currently, the day and evening programs serve, on average at each campus, over 400 students of diverse socioeconomic backgrounds, ethnic groups, and age levels. For the majority of students who attend, these schools are often the last real hope to obtain a high school diploma and continue to higher education or self-sufficient work opportunities. The mission of these schools is to invite, educate, and graduate students who cannot be successfully educated in other schools for a variety of reasons.

The alternative high schools follow the same program of studies and standards-based curriculum used in all FCPS traditional high schools. Student achievement expectations outlined in the standards/program of studies remain exactly the same for all students whether they are in a traditional school or non-traditional schools. What makes alternative schools unique is the design of the master schedule which can allow for additional learning time, a lower student/teacher ratio, and flexibility in scheduling. The schools operate on a "modified" 4X4 schedule with rolling enrollment which allows students to enter the program approximately every 2 weeks. This means that the idea of a semester becomes somewhat less easy to define for some of these students. Also, because of the circumstances (work, medical, family matters, etc.) of many of these students, they are not always able to complete the coursework in what would normally be defined as one semester. Many students will overlap semesters and thus the need for this provision.

Although these schools have been able to attain some tremendous passing rates in the past, given their highly impacted populations, the intent of this proposal was to address the accreditation of these schools over the long-term. The same flexibility that allows these schools to be successful with their students also complicates the ability to show this success unless these schools are given some release from the strictures that the non-alternative schools are able to abide by.

For purposes of determining the adjusted pass rate of 70% in each of the four core academic areas, we are requesting to include the SOL test scores of only those students who have attended the alternative high school for a minimum of ninety days. This waiver will relieve the untenable burden of including students who have transferred from outside the division or from other schools within the division and have been in attendance at the alternative high school for fewer than 90 days prior to testing. All students will continue to be tested in required areas as scheduled in order to earn a high school diploma. Thus, the division is requesting a waiver to the requirements of 8 VAC 20-131-280.C.2 and 8 VAC 20-131-280.E of the *Regulations Establishing Standards for Accrediting Public Schools in Virginia* to allow them to exclude the scores of students who have not been enrolled in the schools for two consecutive semesters from the calculation of accreditation ratings. In addition, the school division is seeking a waiver of the requirement in 8 VAC 20-131-100 of the standards that requires the minimum course offerings for each secondary school to include three courses in foreign languages. Students who wish to pursue the advanced studies diploma requiring a minimum of three units of credit in foreign language will have opportunities to earn the required credit through alternative means. The waiver request is outlined in the attached detailed program description.

**Superintendent's Recommendation:** The Superintendent of Public Instruction recommends that the Board of Education receive the request on first review.

**Impact on Resources:** There is no impact on the resources of the Department of Education.

**Timetable for Further Review/Action:** The Board will conduct a final review of the proposal at its meeting on October 28, 2004.

SA.0201 8/04

**COMMONWEALTH OF VIRGINIA  
DEPARTMENT OF EDUCATION  
RICHMOND, VIRGINIA**

**REQUEST FOR APPROVAL OF AN ALTERNATIVE ACCREDITATION PLAN**

*Regulations Establishing Standards for Accrediting Public Schools in Virginia*, (8 VAC 20-131-10 et. seq.) set the minimum standards public schools must meet to be accredited by the Board of Education. Accreditation of public schools is required by the Standards of Quality (22.1-253.13:1 et. seq.). The annual accrediting cycle for public schools is July 1 through June 30. This cover sheet, with the supporting documentation, must be submitted to the Department of Education for review and recommendation to the Board at least 90 days prior to August 1 of the school year in which the plan is to be implemented.

8 VAC 20-131-280 of the *Regulations Establishing Standards for Accrediting Public Schools in Virginia* states (in part): *Special purpose schools such as regional, special education, alternative, or career and technical schools that serve as the student's school of principal enrollment shall be evaluated on standards appropriate to the programs offered in the school and approved by the Board prior to August 1 of the school year for which approval is requested. Any student graduating from a special purpose school with a Standard, Advanced Studies, or Modified Standard Diploma must meet the requirements prescribed in 8 VAC 20-131-50.*

The Board of Education, in its *Guidelines Governing the Implementation of Certain Provisions of the Regulations Establishing Standards for Accrediting Public Schools in Virginia*, states:

*Schools described in this section are those that serve as a student's school of principal enrollment and where students are reported in fall membership for the school. Fall membership determines whether or not these schools are subject to the provisions of the accrediting standards; therefore, schools reporting fall membership are subject to the provisions of the standards. These schools may or may not administer Standards of Learning (SOL) tests.*

In accordance with the provisions of 8 VAC 20-131-330 of the standards, local school boards may seek waivers of provisions of the standards to address the unique needs of these special purpose schools. Such requests may include an alternative accreditation plan. Applications must be submitted to the Board for consideration at least ninety days prior to August 1 of the school year. Requests for consideration must be accompanied by information that documents the need for approval of the request.

*We, the undersigned, submit this request for review and approval by the Board of Education and understand that we are expected to appear before the Board to discuss the program and respond to questions raised.*

---

Date Approved  
by the Local School Board

---

Signature  
Chairman of the School Board

---

Submission Date

---

Signature  
Division Superintendent

## ALTERNATIVE ACCREDITATION PLAN TEMPLATE

<b>School Name</b>	<i>Bryant Alternative High School</i>		<b>Division</b>	<i>Fairfax County Public Schools</i>	
	<i>Mountain View School</i>				
	<i>Pimmit Hills School</i>				
<b>School Address</b>	<i>Bryant Alternative High School, 2709 Popkins Lane, Alexandria, VA 22306</i>				
	<i>Mountain View School, 5775 Spindle Court, Centreville, VA 20121</i>				
	<i>Pimmit Hills School, 7519 Lisle Avenue, Falls Church, VA 22043</i>				
<b>Contact Person</b>	<i>Teresa M. Zutter, Director</i>		<b>Phone</b>	<i>(703) 352-5251</i>	
	<i>Alternative School Programs</i>				
<b>Fax</b>	<i>(703) 352-7460</i>	<b>E-mail Address</b>	<a href="mailto:Teresa.Zutter@fcps.edu">Teresa.Zutter@fcps.edu</a>		
<b>Proposed Duration of the Plan</b>	<i>2004-2007</i>				
<b>Grade Levels Served</b>	<i>9-12<sup>th</sup></i>				
<b>No. Students Enrolled by Grade Level</b>	<b>GRADE LEVELS (Fall Membership 2003)</b>	<b>Bryant</b>	<b>Mt. View</b>	<b>Pimmit Hills</b>	<b>Total for 3 schools</b>
	<b>Ninth</b>	<b>135</b>	<b>114</b>	<b>182</b>	<b>431</b>
	<b>Tenth</b>	<b>84</b>	<b>37</b>	<b>122</b>	<b>243</b>
	<b>Eleventh</b>	<b>130</b>	<b>78</b>	<b>109</b>	<b>317</b>
	<b>Twelve</b>	<b>169</b>	<b>131</b>	<b>103</b>	<b>403</b>
	<b>Total</b>	<b>518</b>	<b>360</b>	<b>516</b>	<b>1,394</b>

**NOTE:** The space provided will expand to accommodate the description if the form is prepared in Word.

### *I. Describe the mission and purpose of the school.*

The three Fairfax County Public Schools (FCPS) alternative high schools offer a quality educational program in an open campus setting for students who desire to enroll in credit courses leading to a FCPS diploma. Additionally, they offer an adult English Speakers of Other Languages (ESOL) literacy program that is designed to help older ESOL students gain English skills and to complete high school. These schools offer safe, secure, and accepting programs designed to assist students whose life circumstances could result or have resulted in an interruption of their education or in their dropping out of school. This environment appreciates the intrinsic value and rights of all members. The schools incorporate clearly stated goals aligned with state and county requirements, while providing the needed flexibility to accommodate individual needs. The school community recognizes that learning is a life-

long process that encompasses academics, problem-solving, critical thinking, and life skills. Goals of the students are to: develop a graduation plan, create their own transition plan for college, military, entrepreneurship, professional technical studies, and apprenticeships. Additionally, students develop their own personal electronic portfolios, assess their strengths and interests through various career software

programs, and prepare for internships and the world of work. Currently, the day and evening programs serve, on average at each campus, over 400 students of diverse socioeconomic backgrounds, ethnic groups, and age levels. For the majority of students who attend, these schools are often the last real hope to obtain a high school diploma and continue to higher education or self-sufficient work opportunities. The mission of these schools is to invite, educate, and graduate students who cannot be successfully educated in other schools for a variety of reasons. These schools embrace the mission to re-connect with all students “left behind” and bring them safely to the finish line of high school completion, and beyond to adult career ambitions.

***II. Describe the Characteristics of the Student Population Served by the School. Include demographic information that identifies the subgroups attending the school, the criteria used to determine the students’ placement in this school, and the policies governing parental involvement in determining the placement.***

The three FCPS alternative high schools serve a diverse community of learners who require a non-traditional educational setting. Students must be a minimum of 17 years of age unless they are placed by the Office of Hearings and Legal Issues or the School Board, or those who are enrolled in Project Opportunity for pregnant and parenting students. The referring schools send a request for placement referral packet to the Director of Alternative School Programs, including parental permission and all required scholastic and related documents. The Director reviews each case, and forwards the request to the specific alternative school serving the geographic area of the student’s home. A meeting is scheduled with the alternative school administrative and counseling staff, the student, and parents. Final approval for placement occurs when all parties agree that the placement is appropriate. If a student is eligible for special education, an individualized education plan (IEP) is scheduled to determine placement and program decisions. The school population consists of students who have been identified as being “at risk” due to serious life adversities or challenges. Students who enroll in the alternative high schools may be homeless, pregnant or teen parents, facing language barriers, combating poverty, recommended for exclusion/expulsion by the School Board, and/or fighting drug addiction. They may be students older than 22 years of age who are returning to finish courses to earn a high school diploma who are no longer eligible to attend a traditional high school. Students may need a flexible or extended program to accommodate their work or family responsibilities. An increasing number of students are refugees from war-torn countries who are still recovering physically, emotionally, and psychologically from unspeakable trauma. Many have experienced difficulties in traditional school settings as evidenced by poor academic achievement and a history of behavioral and disciplinary events. On average, 85% of the students work more than 20 hours per week in addition to going to school due to economic need. Approximately one third of the populations at the three schools are English Speakers of Other Languages (ESOL), and over 34 languages are routinely spoken by the student body at each of the three schools. A significantly high mobility rate also adversely impacts the continuity of the students’ instructional program. These schools have open/rolling enrollment which allows new students to enter the program every two weeks. Within any given school year there is a consistent base enrollment. However, only 50% of the students that enroll in the fall continue to be enrolled in the spring. The student turnover rate continues to impact the teaching and guidance staff. Students may withdraw for a variety of reasons which include economic, personal trauma, and graduation. Often, students who are referred to the

alternative high schools have exhausted all other options for assistance. The majority of these students have no other educational options. Students under 18 years old are enrolled at alternative schools through policies requiring parents' written request and consultation between the students' base schools and alternative sites. Success is accomplished because students are supported by flexible scheduling, smaller student/teacher ratios, mastery teaching, and programming from 7:45 a.m. to 10:00 p.m.

***III. Describe the instructional program and support services offered by the school. Include a profile of the teaching staff and its qualifications, characteristics of the program that makes it a special purpose school, any differentiated instructional methodologies used, and transition plans for the students.***

*It is important to note that the alternative high schools follow the same program of studies and standards-based curriculum used in all FCPS traditional high schools. Student achievement expectations outlined in the standards/program of studies remain exactly the same for all students whether they are in a traditional school or non-traditional schools. What makes alternative schools unique is the design of the master schedule which can allow for additional learning time, a lower student/teacher ratio, and flexibility in scheduling. Classes are on a four-by-four block scheduling semester model. Each class is conducted for ninety minutes Monday through Friday, for a total of seven hours and thirty minutes per week. The availability of courses and the ability of students to enroll throughout the year, allow adult students to engage in full or part-time studies. The semester configuration also allows students to complete a course within approximately eighteen weeks. The staff provides interactive instruction, individualized lessons, alternative assessment, cooperative learning strategies, and one-on-one teaching. The three schools are able to offer an enhanced guidance and counseling program to assist students with academic, social and emotional needs. Additional support services are provided by a Career Development Coordinator who also engages each student in a transition plan before they graduate and a Technical Coordinator who supports staff and students with instructional and program needs. Clinical staff members include a social worker and psychologist who work with students and staff to ensure a safe and supportive school community. Special education teachers provide individualized instructional support to students who are eligible for special services. In addition, they offer training on a wide range of topics, support reading teachers, and offer roundtable discussions to teachers who work with students with emotional disabilities. A Career Center at each school, funded by the Career Connection initiative, is a critical component to assist students in finding necessary employment and higher education opportunities. Transitional counseling is coordinated to assist students as they move to the world of work. Program availability and flexible scheduling allows students to succeed at job locations that often require shift work and late night hours.*

*All instructional staff members are licensed practitioners with teaching experience in public schools ranging from one year to 42 years, and more than half have had several years of teaching experience in a mainstream comprehensive high school. Teachers have earned a variety of professional credentials, including Bachelor of Arts degrees, Masters degrees, and doctoral degrees. Many staff members teach at local universities and at the Fairfax County Public School Professional Development Academy and training seminars. In addition to required professional development activities, all staff members attend local, state, and national conferences. Administrators and staff members have presented at local (LEAD Fairfax), state (VASSP, VAESF, VAEA, VFAEL) and national conferences (ASCD, NASSP). Personnel have also been recognized for prestigious awards, such as the Washington Post Agnes Meyers Distinguished Educational Leadership Award (Principal of the Year 2004) and the Robert R. Spillane Leadership Award.*



***IV. Describe the strategies and instruments used by the school to evaluate student progress toward established goals and objectives.***

*Each school follows a comprehensive School Improvement Plan which clearly outlines long term goals, measurable objectives, and proven methodologies for instruction in all content area offerings. Special emphasis is placed on the four core areas with targeted attention to reading, literacy and math. Action plans include*

*establishing a series of SOL based assessments to display competency in the understanding of printed material, writing assessments to show understanding of the elements of literature, and creating assessments to determine if students can locate and use information from a variety of resource materials. Teachers have adopted the writing process as established by the Northern Virginia Writing Project. Students maintain portfolios which are used as*

*part of the exit exam. Teachers use challenging instructional materials such as Measuring Up for English 9 and Buckle Down for English 10. They continue to use Reading Coach and Writing Coach for SOL preparation at the eleventh and twelfth grade levels. Students in grades 9-12 may enroll in Developmental Reading, which offers students an opportunity to improve their reading, thinking, and study skills. A wide range of materials, both fiction and nonfiction, is used to extend vocabulary and comprehension. Instruction in applying reading strategies to content materials and textbooks is provided. Students in ninth grade are enrolled in Developing Literacies, which provides direct remediation of content area reading skills necessary to understand the contents of math, science, social studies, and English. The course focuses on the reading skills necessary for successful completion of the SOL tests given in the four core areas. Tenth and eleventh grade students may enroll in Expanding Literacies, which focuses on reading skills and English content necessary to pass the EOC English 11: Reading/Literature and Research and/or the EOC English: Writing SOL tests. Verified credit on both tests is required in order to earn a Standard Diploma. Engaging software blends content area reading strategies with subject specific remediation. Software used for Developing Literacies by the three alternative high schools include: RiverDeep Logal High School Science Gateways for Biology: RiverDeep Destinations Math for Algebra 1, ePat for Algebra, Geometry and English, Makes Sense Strategies: The Works V3.0, Get A Clue Vocabulary Program for English, Developing Literacies Web site, and Inspirations Software for all contents. Additionally, the Expanding Literacies software includes: NCS Mentor for Virginia, the Grammar website from VDOE Project Graduation, ePat - Electronic Practice Assessment and Tutoring, Princeton Online Tutorial for English Reading, Get a Clue Vocabulary Program, and Makes Sense Strategies: The Works V3.0 (Ed Ellis Think-Sheets). Cognitive Tutor is a software program also used for Algebra 1 and Geometry. It uses 60% class time and 40% computer time. Assessments include the Degree of Reading Power (DRP), the Flanagan tests which serve as pre-SOL indicators of test readiness, the ABACUS Test Bank, the PSAT, SAT, Meridian math assessment software, PLATO, and all end-of-course assessments used by all of the FCPS high schools. Students remain enrolled in a course until they demonstrate mastery of all content requirements of the SOQ and FCPS Programs of Study. Often, students remain in a course past the 140 hour seat time in order to assure full understanding of the curriculum prior to taking the end of course exam and the correlating SOL test. The teachers take a personal and dedicated approach to every student by offering extra time and in-depth course study. Many additional hours of tutorial instruction is provided beyond contract hours as a personal commitment to helping these students succeed.*

<b><i>V. Does the school meet the pre-accreditation eligibility requirements outlined in 8 VAC 20-131-280.F. of the accrediting standards? (If not, waivers must be requested for each accreditation standard not being met.)</i></b>	<b>X</b>	<b>Yes</b>		<b>No</b>
---	----------	------------	--	-----------

***VI. List each standard and provide a detailed explanation of why the standard is not appropriate for the school. (Note: Waivers of the assessment requirements of the No Child Left Behind Act of 2001 and the Regulations Establishing Standards for Accrediting Public Schools in Virginia are not available.)***

***Request for waiver #1:***

***8 VAC 20-131-280. Expectations for school accountability.***

***Part C. 5. All students who transfer within a school division shall have their scores counted in the calculation of the school's accountability (accreditation) rating... If the transfer takes place after the 20<sup>th</sup> instructional day following the opening of school, the scores on these tests may be used in calculating school accountability (accreditation) ratings.***

***Part C.6. Students who transfer into a Virginia middle or high school from another state or country and enroll in a course for which there is an end-of-course SOL test shall be expected to take the test or other***

***additional test for that course approved by the Board as outlined in 8 VAC 20-131-110.B of these regulations. If the transfer takes place after 20 instructional hours per course have elapsed following the opening of school or beginning of the semester, if applicable, the scores on those tests may be used in calculating school accountability (accreditation) ratings in the year the transfer occurs.***

***Part C.7. Students who enroll on the first day of school and subsequently transfer to a school outside of the division for a total amount of instructional time equal to or exceeding 50 percent of a current school year or semester, whether the transfer was a singular or multiple occurrence, and return during the same school year, shall be expected to take any applicable SOL test. The scores of those tests may be used in calculating the school's accountability (accreditation) rating in the year in which the transfer(s) occur(s).***

*As special purpose schools, an accreditation waiver for FCPS alternative high schools is requested (8 VAC20-131-330) for this standard regarding inclusion of SOL scores of specified transfer students in the accreditation of the school. For purposes of determining the adjusted pass rate of 70% in each of the four core academic areas, we are requesting to include the SOL test scores of only those students who have attended the alternative high school for a minimum of 90 days within one semester or cumulatively over two consecutive semesters, depending on the date of enrollment. The schools operate on a "modified 4X4 schedule with rolling enrollment which allows students to enter the program approximately every 2 weeks. This means the idea of a semester becomes somewhat less easy to define for some of these students. Also, because of the circumstances (work, medical, family matters, etc.) of many of these students, they are not always able to complete the coursework in what would normally be defined as one semester. Many students will overlap semesters and thus explains the need for this waiver. This waiver will relieve the untenable burden of including students who have transferred from outside the division or from other schools within the division and have been in attendance at the alternative high school for fewer than 90 days prior to testing. For example, a student may enroll at the alternative school at mid-December of the first semester and continue the coursework throughout the entire second semester until all content area benchmarks are mastered. The majority of these students come to the alternative high school in considerable academic, social and emotional distress. Depending on the life story of each student, it typically takes several weeks to stabilize the student as they deal with the change in school placement, possible crisis pregnancy and parenting, other life emergencies, or integration into*

*a new culture when arriving from another country as a refugee. Once students adjust to their particular circumstances, they are better able to focus on the academic requirements they must master. It is difficult to predict specific profiles of students by age or category that may not remain enrolled a full ninety days. Each student is monitored for individualized needs, such as maternity absence, court involvement, or work demands. Unlike traditional schools that start with and continue throughout the year with the majority of their assigned students, the alternative schools receive students throughout the year, and those students who are accepted are often in the worst possible condition when they first begin their studies at the alternative school. It is important to state that all students continue to be tested in required areas as scheduled in order to earn a high school diploma.*

*The three alternative high schools have tremendous fluctuation in enrollment due to the nature of the at-risk students they are specifically designed to serve. As stated earlier, the open enrollment design is built to accommodate a constant flow of new students who transfer from other schools throughout the year due to academic failure, behavior issues, or other serious concerns. Another factor concerns a considerable number of the young adult students who have to work by necessity to support families, and often must rotate semesters between working and attending school. Because they pay for their tuition after the age of 22, these students often work for periods of time, then return to the alternative schools to take a few more courses before having to quit and work again. This explains why many of the students do not complete their high school education in the more typical four year timeframe of a traditional school, and often have gaps in their enrollment history. Traditional schools are unable to accommodate such fluctuation in programming, and the alternative high schools are the students' best hope for academic continuation and success.*

*Although the three alternative high schools have attained some impressive passing rates in some areas, given the highly impacted populations, the intent of this waiver is to address the accreditation of these schools over the long-term. The same flexibility that allows these schools to be successful with their students also complicates the ability to show this success unless the schools are given some release from the strictures that traditional schools are much more able to abide by. This waiver will level the playing field for these schools by allowing them to continue with their flexible enrollment policies and still hold the individual students to the same high level of achievement and accountability.*

***Request for waiver #2:***

**8 VAC 20-131-100 Part B. Minimum course offerings for each secondary school shall provide opportunities for students to meet the graduation requirements stated in 8VAC 20-131-50 and must include: “foreign language- 3 credits” (from chart).**

*We are requesting a waiver for offering a foreign language sequence of course requirements (8 VAC 20-131-100). Due to the small size of the alternative high schools in addition to a career focus, these schools are not able to staff and offer a sequence of foreign language courses. Students typically pursue the standard diploma; however, it may be possible for a student to achieve an advanced studies diploma under certain circumstances. If students desire an advanced studies diploma, they are often able to obtain necessary foreign language requirements prior to, or concurrently during, enrollment in the alternative high school, as detailed in the next section, without these courses being offered directly at the alternative high school site.*

*Documentation of graduation data is shown in the chart below:*

<b>Bryant Alternative High School</b>						
	Graduates			Diploma Types-Bryant & Landmark		Total Graduates
Year	Feb	June	August/Summer	Advanced	Standard	
1998	30	76	21	2	139	127
1999	28	43	25	1	100	96
2000	39	60	27	2	141	126
2001	31	71	35	3	151	137
2002	37	60	31	4	134	128
2003	39	63	38	4	150	140
2004	54	51	26	2	143	131
<b>Landmark Career Academy (satellite program of Bryant Alternative High School)</b>						
	Graduates			Diploma Types		Total Graduates
Year	Feb	June	August/Summer	Advanced	Standard	
1998	3	11	0	Numbers included in Bryant numbers above		14
1999	3	2	0			5
2000	8	3	6			17
2001	5	10	5			20
2002	3	7	0			10
2003	6	7	1			14
2004	8	5	1			14

Mountain View School						
	Graduates			Diploma Types		Total Graduates
Year	Feb	June	August/Summer	Advanced	Standard	
1998	38	67	8	4	109	113
1999	50	50	11	6	105	111
2000	40	76	10	17	109	126
2001	44	66	17	9	118	127
2002	46	63	16	6	119	125
2003	56	66	14	2	132	134
2004	49	75	14	5	133	138
Pimmit Hills School						
	Graduates			Diploma Types		Total Graduates
Year	Feb	June	August/Summer	Advanced	Standard	
1998	24	40	19	0	83	83
1999	22	56	6	0	84	84
2000	12	58	12	0	82	82
2001	56	80	20	0	156	156
2002	20	53	11	1	83	84
2003	32	70	11	1	112	113
2004	33	42	8	0	83	83

**VII. List the standards or student academic achievement criteria on which you propose to base the school's accreditation and provide a detailed rationale for selecting each. The standards/criteria must be objective, measurable, and related directly to the mission and purpose of the school. Provide data to support your rationale.**

**Request for waiver #1:**

The alternative high schools are committed to providing students the academic focus necessary to complete the standards and objectives for each high school course. To allow this to happen, alternative high schools must keep their accreditation. For purposes of determining the adjusted pass rate of 70%, we are requesting to include the SOL test scores of only those students who have attended the alternative high school for a minimum of two consecutive semesters. Student requirements of course completion, end of course exams, and SOLs for graduation would remain unaffected, however, the schools are given appropriate consideration that the staff is serving a concentrated student population that has not been successful in any other traditional schools prior to enrollment in the alternative high school. Since the alternative high schools endorse a rolling enrollment model which allows students to enter the program approximately every two weeks, this waiver will allow the schools to continue to serve students in serious need, while also promoting a fair assessment of the schools' academic progress, given the unique and extremely diverse population they serve. Relief in these requirements acknowledges that more time and considerable effort is necessary when working with at-risk students who exhibit significant remedial and special assistance in core subject requirements. This proposal would allow alternative high schools to continue to meet the needs of this at-risk population without yearly state interventions.

**Request for waiver #2:**

As mentioned above, students who desire foreign language credits have several options. Several examples follow. An ESOL student may transfer from the base school to the alternative school with 2

years of a foreign language (ex: Korean 1 and Korean 2, or Spanish 1 and Spanish 2), then he/she can use two other earned credits of ESOL B to meet the other two years of two foreign languages, thus a total of 4 credits of foreign language for

the Advanced Studies diploma. Another case would be a student who has earned 2 years of a foreign language already at the base school and later takes the foreign language proficiency test in another language and passes. He/she can earn two credits in that language, thus meeting the requirement for the advanced studies diploma. A different scenario would be the student who has already earned either 3 credits in one foreign language or 2 credits each in two foreign languages for a total of four credits. This student can be awarded an advanced studies diploma at the alternative schools if all other math, science, and verified credit requirements are met. Some students choose to take foreign language coursework at Northern Virginia Community College and transfer the credits to the alternative high school. It is important to note that the alternative high schools follow the same program of studies used in the other FCPS high schools. The student achievement expectations outlined in the standards/program of studies remain exactly the same for all students whether they are in traditional or non-traditional schools. What makes alternative schools unique is the design of the master schedule which can allow for additional learning time, a lower student/teacher ratio, and flexibility in scheduling. The sequential elective requirement will be met through a variety of course offerings such as art, professional technical studies, business education, physical education, and work and family studies. Students will meet all other instructional requirements.

***VIII. Describe who was involved in the development of the proposed plan.***

***Dr. Brad Draeger, Interim Superintendent, FCPS***

***Dr. Alice M. Farling, Assistant Superintendent, Special Services***

***Dr. Michael Glascoe, Assistant Superintendent, Educational Accountability***

***Mrs. Jan McKee, Principal, Bryant Alternative High Schools***

***Mr. James Oliver, Principal, Mountain View High School***

***Mrs. Beverly Wilson, Principal, Pimmit Hills School***

***Mrs. Teresa M. Zutter, Director, Alternative Schools Programs, Special Services***

***Dr. Raymond Diroll, Coordinator, Office of Student Testing***

***Mrs. Deanna Weaver, Director, Guidance, Mountain View School***

***IX. Describe the method(s) to be used in evaluating the success of the plan.***

Student graduation and grade promotion progress will continue to be closely monitored and supported to ensure that all students enrolling in the alternative high school remain on track to graduate. Each student shall take all applicable end-of course SOL tests following course instruction and meet all units of credit and verified credit requirements for graduation. All typical objective data such as graduation rates, graduation requirements, student-earned verified credits, drop-out rates, average daily membership, suspension/expulsion numbers, senior surveys, course curricula/Programs of Studies, and age ranges of students (includes adult learners) can all be monitored and evaluated to ensure success. (8 VAC20-131-110.B) For the purpose of establishing accreditation for the high schools, only the scores of those students who have been enrolled at the alternative high school for a minimum of 90 days over the course one or two semesters will be used in calculating state accreditation.

# Board of Education Agenda Item

**Item:** K

**Date:** September 22, 2004

**Topic:** First Review of Timeline for the Review and Approval of the Revised Computer/Technology Standards of Learning

**Presenter:** Mr. Lan Neugent, Assistant Superintendent for Technology

**Telephone Number:** 804-225-2757    **E-Mail Address:** lneugent@mail.vak12ed.edu

**Origin:**

\_\_\_\_ Topic presented for information only (no board action required)

\_\_\_\_\_ Board review required by

     x State or federal law or regulation

Board of Education regulation

Other:

X Action requested at this meeting           Action requested at future meeting:

**Previous Review/Action:**

\_\_\_\_\_ No previous board review/action

Previous review/action

date

---

action

### Background Information:

The Board of Education adopted a schedule for review and revisions to the Standards of Learning at its September 28, 2000 meeting. Accordingly, the computer technology standards are scheduled for revision in 2005. (Code of Virginia § 22.1-253.13:1-2 By October 1, 2000, the Board of Education shall establish a regular schedule, in a manner it deems appropriate, for the review, and revision as may be necessary, of the Standards of Learning in all subject areas. Such review of each subject area shall occur at least once every seven years. Nothing in this section shall be construed to prohibit the Board from conducting such review and revision on a more frequent basis.)

## Summary of Major Elements

Using an established review process and criteria, the Department of Education, Division of Technology, Office of Educational Technology has plans to review and or revise the current Standards of Learning for Computer Technology. A proposed timeline is attached.

**Superintendent's Recommendation:**

The Superintendent of Public Instruction requests that the board waive first review and approve the timeline.

**Impact on Resources:**

The Department of Education administers the state standards review process. The agency's existing resources can absorb this responsibility at this time.

**Timetable for Further Review/Action:**

Upon approval, the Department of Education will provide information to all interested parties according to the attached timeline.



## Proposed Schedule for the Review of the Computer/Technology Standards of Learning

Proposed Time Frame	Objective
<p style="text-align: center;"><b>September 2004</b></p>	<p>A Superintendent's Memorandum is distributed that:</p> <ul style="list-style-type: none"> <li>• Announces the schedule of the review process;</li> <li>• Announces the availability of a Standards of Learning review/comment page on the Department of Education's Web site;</li> <li>• Requests that division superintendents share information about the Web site with instructional staff; and</li> <li>• Provides information regarding the selection of the review team.</li> </ul>
<p style="text-align: center;"><b>September 2004</b></p>	<p>The Department of Education posts on its Web site a Computer/Technology Standards of Learning review/comment page for the current Computer/Technology Standards of Learning. The page will be active for four to six weeks.</p>
<p style="text-align: center;"><b>October 2004</b></p>	<p>The Department of Education aggregates and conducts a preliminary analysis of the comments entered on the Web page</p>
<p style="text-align: center;"><b>November 2004</b></p>	<p>The Computer/Technology Standards of Learning Committee reviews:</p> <ul style="list-style-type: none"> <li>• Statewide Web page input;</li> <li>• National documents, reports, and assessment information; and</li> <li>• Makes preliminary recommendations for potential changes.</li> </ul>
<p style="text-align: center;"><b>December 2004</b></p>	<p>The Department of Education prepares the review teams' preliminary comments in a pre-draft. Review team members conduct research and reflect on preliminary recommendations.</p>

<b>December 2004</b>	The Department of Education prepares a preliminary draft of the reviewed Computer/Technology Standards of Learning for stakeholder review. The draft is disseminated and feedback compiled.
<b>January 2005</b>	The Department of Education presents the draft document to the board for first review. Following the approval of the Board of Education, the department will develop a Computer Technology Resource Guide.
<b>January 2005</b>	The proposed Standards of Learning document is distributed for public comment. The document is placed on the Virginia Department of Education Web site for review. Public hearings are held as prescribed by the Board of Education.
<b>February 2005</b>	The Department of Education and a review team begin a preliminary review of the Department of Education's Computer/Technology Resource Guide.
<b>February 2005</b>	The Superintendent of Public Instruction presents the proposed Computer/Technology Standards of Learning to the Board of Education for final review and adoption. The final document is posted on the Department of Education's Web site within three weeks of adoption.
<b>March 2005</b>	The board approved Standards of Learning and the Department of Education's Resource Guide are distributed.

# Board of Education Agenda Item

Item: L.

Date: September 22, 2004

**Topic:** First Review of an Advisory Board on Teacher Education and Licensure (ABTEL) Recommendation to Establish ACT Scores as a Substitute Test for Praxis I

**Presenter:** Dr. Thomas A. Elliott, Assistant Superintendent for Teacher Education and Licensure

**Telephone Number:** (804) 371-2522

**E-Mail Address:** telliott@mail.vak12ed.edu

## Origin:

       Topic presented for information only (no board action required)

  x   Board review required by

  x   State or federal law or regulation

       Board of Education regulation

       Other:                                 

       Action requested at this meeting   x   Action requested at future meeting: October 28, 2004 (date)

## Previous Review/Action:

  x   No previous board review/action

       Previous review/action

date                                 

action   

## Background Information:

On March 24, 2004, the Board of Education approved the use of the SAT as a substitute test for Praxis I (Reading, Writing, and Mathematics) required for initial licensure. The board approved a score of **1000** on the SAT, taken prior to April 1, 1995, with at least **450** on the verbal and **510** on the mathematics tests or a score of **1100** on the SAT, taken after April 1, 1995, with at least **530** on the verbal and **530** on the mathematics tests as a substitute for Praxis I.

The Board of Education's decision to approve the SAT as a substitute for Praxis I was a recommendation of the Advisory Board on Teacher Education and Licensure. The advisory board based its recommendations to the Board of Education on a study titled, *Report of Virginia PPST Exemption Study: Exemption Based on SAT Scores*, conducted by Samuel A. Livingston and Kevin Larkin, Educational Testing Service (ETS).

The study described in the ETS report was designed to estimate the relationship between a prospective teacher's SAT score and the probability of passing the PPST reading and mathematics tests. This relationship was estimated using the SAT verbal score as a predictor of success on PPST reading and the SAT mathematics

score as a predictor of success on PPST mathematics. The probabilities were estimated for the Virginia qualifying scores on each PPST test: 178 for PPST reading and 178 for PPST mathematics.

The SAT score scale was revised in April of 1995; therefore, scores were approved for test takers prior to April 1, 1995, and those who took the test after April 1, 1995. At least three states use the SAT as a substitute test for Praxis I – Connecticut, Delaware, and Georgia. Two of the states also have established correspondences between ACT and SAT I scores. The correspondences between ACT and SAT I scores were established from College Board Report No. 99-1; ETS RR No. 99-2 titled, *Correspondences Between ACT and SAT I Scores*, Neil J. Dorans, College Entrance Examination Board, New York, 1999. This study was the source for the ABTEL recommendation for Virginia. The full study with concordance tables for mathematics, English Plus Reading and composite scores is available at: [www.collegeboard.com/research/home](http://www.collegeboard.com/research/home).

### **Summary of Major Elements:**

Relationships among the different scales of the ACT and SAT I, two nationally known college admission tests, are described in the context of the conceptual framework developed and explained in the 1999 College Board study titled, *Correspondence Between ACT and SAT I Scores*. Users want to know how scores on the ACT and the SAT I are related. Dorans, Lyu, Pommerick, and Houston (1997) presented correspondences between SAT I and both the ACT Sum and the ACT Composite. Data from that study are used to provide examples of both concordances and predictions among various scores on the two prominent tests. Sums of scores, composites of scores, and individual scores are examined.

Currently, three other states (Georgia, Delaware, and Connecticut) use the SAT as a substitute test for Praxis I. Of those three states, two have concordances between the SAT and the ACT score. Georgia accepts ACT scores in lieu of Praxis I with a minimum score of 21 on the English subtest and 22 on the mathematics subtest. Connecticut accepts ACT scores of 22 on the English subtest, and no less than 19 on the mathematics subtest if taken on or after October 1989 and no less than 20 on the English subtest and no less than 17 on the mathematics subtest if taken prior to October 1989. The state of Delaware does not accept the ACT, but will accept a combination of Praxis I, SAT, GRE, California Basic Educational Skills Test (CBEST), and NTE communication skills to satisfy the Praxis I portion of the state's assessment requirements.

ACT scores based on Concordance Between SAT I Mathematical and ACT Mathematics Scores (table 7); Concordance Between ACT English Plus Reading and SAT I Verbal Scores (tables 14 and 15); and Concordance Between ACT Sum and SAT I Verbal and Mathematics Scores (table A.3); were used to arrive at the recommended ACT scores to use as a substitute test for Praxis I.

### **Superintendent's Recommendation:**

The Superintendent of Public Instruction recommends that the Board of Education waive first review and approve the following ABTEL proposal as an ACT substitute test for Praxis I:

Prior to April 1, 1995 -- a composite score of 21 (concordance with the combined SAT 1000 score), with the ACT mathematics score no less than 21 (concordance with the 510 SAT mathematics score), and an ACT English and Reading score no less than 37 (concordance with 450 SAT verbal score).

After April 1, 1995 – a composite score of 24 (concordance with the combined SAT 1100 score), with the ACT mathematics score no less than 22 (concordance with the 530 mathematics score), and an ACT English Plus Reading score no less than 46 (concordance with the 530 SAT verbal score).

**Impact on Resources:** There will be no impact on resources with the implementation of this recommendation.

**Timetable for Further Review/Action:**

# Board of Education Agenda Item

Item: M.

Date: September 22, 2004

**Topic:** First Review of a Recommendation to Establish Proficiency Levels for the American Council on the Teaching of Foreign Languages (ACTFL) Oral Proficiency Interview and the Writing Proficiency Test as Alternate Tests to the Modern Language Association (MLA) Proficiency Test for Teachers and Advanced Students

**Presenter:** Dr. Thomas A. Elliott, Assistant Superintendent for Teacher Education and Licensure

**Telephone Number:** (804) 371-2522

**E-Mail Address:** telliott@mail.vak12ed.edu

## Origin:

☐ Topic presented for information only (no board action required)

☒ Board review required by  
☒ State or federal law or regulation  
☐ Board of Education regulation  
☐ Other: \_\_\_\_\_

☒ Action requested at this meeting ☐ Action requested at future meeting: \_\_\_\_\_ (date)

## Previous Review/Action:

☐ No previous board review/action

☒ Previous review/action  
date June 23, 2004  
action The Board of Education approved the use of the American Council on the Teaching of Foreign Languages (ACTFL) Oral Proficiency Interview and the Writing Proficiency Test as alternate tests to the Modern Language Association (MLA) Proficiency Test for Teachers and Advanced Students.

## Background Information:

*The Licensure Regulations for School Personnel* allow native speakers or candidates who have learned a foreign language without formal academic credit in a college or university to meet the foreign language endorsement requirements by achieving a composite score at or above the fiftieth percentile on the listening, speaking, reading, writing, civilization, and culture sections of the Modern Language Association (MLA) Proficiency Test for Teachers and Advanced Students, and earning a minimum of three semester hours of methods of teaching foreign languages at the elementary and secondary levels from an accredited college or university in the United States.

On June 23, 2004, the Board of Education approved the use of the American Council on the Teaching of Foreign Languages (ACTFL) Oral Proficiency Interview and the Writing Proficiency Test as alternate tests to the Modern Language Association (MLA) Proficiency Test for Teachers and Advanced Students.

The **ACTFL Oral Proficiency Interview (OPI)** is a face-to-face or telephone interview between a certified ACTFL tester and examinee that determines how well a person speaks a language by comparing his or her performance of specific communication tasks with the criteria for each of 10 proficiency levels described in the *ACTFL Proficiency Guidelines-Speaking (Revised 1999)*. The **ACTFL Writing Proficiency Test (WPT)** is a vehicle that measures how well a person spontaneously writes in a language (without access to dictionaries or grammar references) by comparing his/her performance on specific writing tasks with the criteria stated in the *ACTFL Proficiency Guidelines – Writing (Revised 2001)* descriptions.

The following states are using official ACTFL testing in foreign languages for some component of their teacher certification/licensure process. These states have established a formal testing protocol with the ACTFL Testing Office for assessing teacher candidate speaking proficiency. The minimal level of proficiency is established by the individual state.

State	Test	Purpose	Minimal standard required
California	OPI*	BCLAD** Requirement: All teachers must demonstrate language ability in a language other than English	Novice High
Connecticut	OPI WPT***	All foreign languages	Intermediate High Intermediate High
Georgia	OPI	All languages – alternative teacher certification	Advanced Low
Maine	OPI	All languages – alternative teacher certification	Advanced Low
Maryland	OPI/WPT	Italian	Advanced Low/Advanced Low
New Jersey	OPI WPT	All languages – (OPI only) Bilingual and ESL Teachers-target language & English	Advanced Low Advanced Low
Pennsylvania	OPI	French, German, Spanish - all teachers – as an alternative to the Praxis	Intermediate High
Texas	OPI	All languages in which the TOPT*** is not available	Advanced Low

\* OPI - ACTFL Oral Proficiency Interview

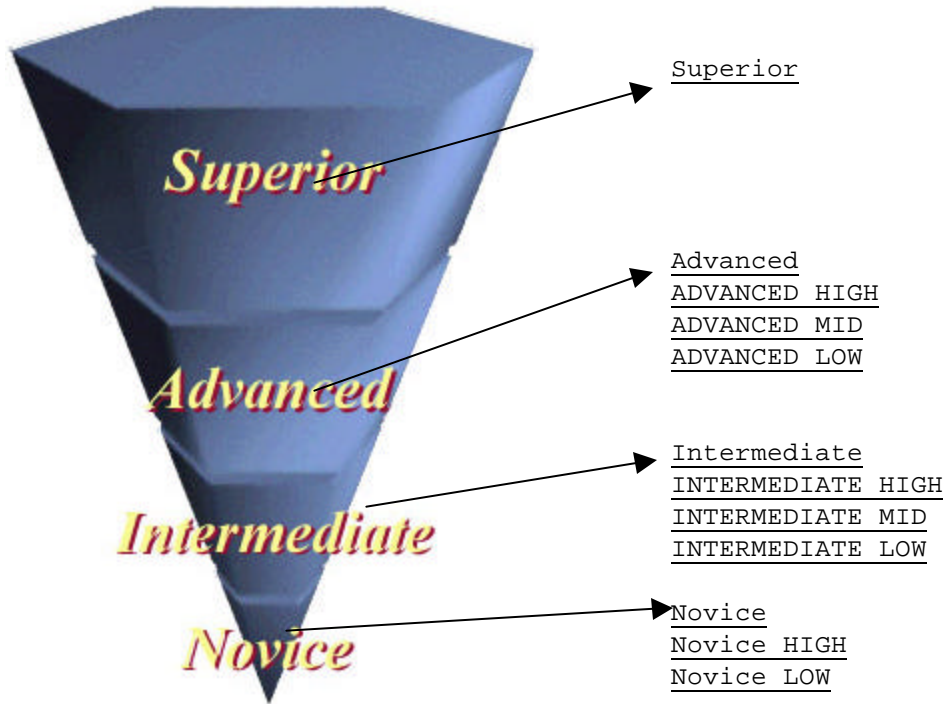
\*\*\* WPT - ACTFL Writing Proficiency Tests

\*\* BCLAD - Bilingual, Crosscultural, Language and Academic Development (BCLAD)

\*\*\*\*TOPT - Texas Oral Proficiency Test

## ACTFL PROFICIENCY GUIDELINES

The 10 proficiency levels that may be achieved by test takers are listed below:



[Excerpt from the Language Testing International Web Site]

### Summary of Major Elements:

Licensed Virginia teaching practitioners were invited to participate in an ACTFL OPI and ACTFL WPT validation and standard-setting study to determine the validity of the assessments and minimum proficiency levels or cut scores on these assessments for this licensing provision. The validation and standard-setting study was held on Thursday, August 12, 2004, at the Doubletree-Airport Hotel in Richmond, Virginia. Twelve Virginia teaching practitioners with endorsements in Chinese, Japanese, German, French, Spanish, and Italian acted as Subject Matter Experts (SMEs) and participated in the full-day study. Two representatives from ACTFL, Dr. Elvira Swender and Helen Hamlyn, facilitated the validation and standard setting process. Two Department of Education representatives, Patty Pitts, director of licensure, and Faye Rollings-Carter, foreign language specialist, observed the study.

The study entailed giving the participants a formal half-day ACTFL OPI and WPT Familiarization, followed by a SME review of actual speech and writing samples in the target languages in the afternoon. During the ACTFL OPI and WPT Familiarization, the participants were instructed in the OPI and WPT rating scales - the ACTFL Proficiency Guidelines for Speaking and Writing - and the format of both assessments. The SMEs also were given other data to consider, especially when setting "cut scores." That information included the results of a



study evaluating the proficiency scores of foreign language majors; the minimum language proficiency levels recommended by NCATE (The National Council for the Accreditation of Teacher Education); and other State Departments of Education that have adopted ACTFL assessments as a part of their teacher licensing requirements.

In the afternoon, the participating SMEs divided into language groups and listened to a range of taped OPIs and read a range of completed WPTs in their target language. (Two SMEs were able to participate in the review of writing samples in two languages.) The SMEs discussed the language samples among themselves, focusing their discussions on whether a speaker or writer at that level would be qualified to teach the expected grade and course levels in Virginia public schools. At the end of the afternoon, each SME was asked to give the facilitator his or her recommendation for a minimum proficiency.

The initial, individual recommendations were tabulated and presented to the group as follows:

**ACTFL OPI** minimum proficiency or “passing score”: 10 said Advanced Low and two said Intermediate High.

**ACTFL WPT** minimum proficiency or “passing score”: 10 said Advanced Low and four said Advanced Mid.

After the presentation of the initial individual recommendation, a discussion followed, at the conclusion of which the group was asked if they could all support a recommendation of Advanced Low as a minimum score in speaking and writing. All 12 Subject Matter Experts agreed that they could support that recommendation.

### **PANEL RECOMMENDATIONS**

The unanimous recommendations of the Subject Matter Experts at the conclusion of the meeting were as follows:

<b>ACTFL OPI Result</b>		<b>ACTFL WPT Result</b>	
Novice Low	Not Qualified	Novice Low	Not Qualified
Novice Mid	Not Qualified	Novice Mid	Not Qualified
Novice High	Not Qualified	Novice High	Not Qualified
Intermediate Low	Not Qualified	Intermediate Low	Not Qualified
Intermediate Mid	Not Qualified	Intermediate Mid	Not Qualified
Intermediate High	Not Qualified	Intermediate High	Not Qualified
<b>Advanced Low</b>	<b>Qualified</b>	<b>Advanced Low</b>	<b>Qualified</b>
<b>Advanced Mid</b>	<b>Qualified</b>	<b>Advanced Mid</b>	<b>Qualified</b>
<b>Advanced High</b>	<b>Qualified</b>	<b>Advanced High</b>	<b>Qualified</b>
<b>Superior</b>	<b>Qualified</b>	<b>Superior</b>	<b>Qualified</b>

**Superintendent's Recommendation:**

The Superintendent of Public Instruction recommends that the Board of Education waive first review and approve the Advisory Board on Teacher Education and Licensure's proposed proficiency levels of "Advanced Low" and above for the ACTFL Oral Proficiency Interview (OPI) and the Writing Proficiency Test (WPT).

**Impact on Resources:** The cost of the tests would be incurred by the test taker.

**Timetable for Further Review/Action:** N/A

# Board of Education Agenda Item

**Item:** \_\_\_\_\_ N. \_\_\_\_\_

**Date:** September 22, 2004

**Topic:** First Review of Cut Scores for Praxis I Proposed by the Advisory Board on Teacher Education and Licensure (ABTEL) Based on the Re-Validation and Standard-Setting Study Conducted on July 22, 2004

**Presenter:** Dr. Thomas A. Elliott, Assistant Superintendent for Teacher Education and Licensure

**Telephone Number:** (804) 371-2522

**E-Mail Address:** telliott@mail.vak12ed.edu

## Origin:

\_\_\_\_\_ Topic presented for information only (no board action required)

x Board review required by

x State or federal law or regulation

\_\_\_\_\_ Board of Education regulation

\_\_\_\_\_ Other: \_\_\_\_\_

\_\_\_\_\_ Action requested at this meeting x Action requested at future meeting: \_\_\_\_\_ (date)

## Previous Review/Action:

\_\_\_\_\_ No previous board review/action

\_\_\_\_\_ Previous review/action

date

action

## Background Information:

The 1980 session of the General Assembly mandated that the Board of Education identify and recommend an assessment for beginning teachers. On July 1, 1980, the Board of Education instituted a requirement that all beginning teachers applying for initial licensure submit scores for the National Teacher Examinations (NTE). In 1981 the board authorized validation and standard-setting studies for the NTE to determine passing scores for initial licensure of entry-level teachers. From July 1, 1981, until June 30, 1986, applicants were required to take the NTE to receive a license. Qualifying scores were established and, effective July 1, 1986, each beginning teacher was required to submit passing scores for each of the three Core Battery tests (General Knowledge, Communication Skills, and Professional Knowledge) and the Specialty Area test in his/her teaching area. From 1981 to 1996 the prescribed assessment was the NTE.

The Educational Testing Service (ETS) introduced in the fall of 1993 a new generation of teacher assessments, The Praxis Series: Professional Assessments for Beginning Teachers<sup>TM</sup>. The Praxis Series replaced the NTE as the standard examinations used in the process for licensing teachers. The Praxis Series provides a continuum of assessments from entry into a teacher preparation program to actual practice in the classroom.

Standard-setting and validation studies for Praxis I were conducted on May 4 and 5, 1994, by ETS in coordination with the Virginia Department of Education. Thirty-three panelists participated in the studies. The panel of Virginia educators considered the Praxis I Mathematics, Reading, and Writing tests. Based on the validation and standard-setting panels, the following scores were recommended: Reading: 176; Writing: 173; and Mathematics: 175.

At its October 26, 1995, meeting the Board of Education selected passing scores one and a half to two SEMS (Standard Error of Measurement) above the study panel for the Praxis I PPST (Pre-Professional Skills Tests) and approved the following passing scores for Virginia:

Reading:	178
Writing:	176
Mathematics:	178

These scores established by the Board of Education continue to be the highest qualifying scores for Praxis I among states (and the District of Columbia, Virgin Islands, Guam, and the Department of Defense Dependent Schools) using this assessment. The board approved the use of Praxis I and II tests; however, Praxis III was not adopted for statewide use.

On April 26, 2001, the Board of Education approved a policy allowing a composite score to satisfy the Praxis I requirement. Individuals may meet the Praxis I assessment requirement by achieving the scores established by the Board of Education on October 26, 1995, on each of the three Praxis I tests – Writing, Reading, and Mathematics – or by achieving an established composite score on all three tests. The qualifying scores for each of the individual tests and the composite score for the PPST are as follows:

VIRGINIA'S PRAXIS QUALIFYING SCORES				
<u>Praxis I</u>	<u>Reading</u>	<u>Writing</u>	<u>Mathematics</u>	<u>Composite Score</u>
<b>PPST</b>	<b>178</b>	<b>176</b>	<b>178</b>	<b>532</b>

On March 24, 2004, the Board of Education approved the use of the SAT® as a substitute test for Praxis I (Reading, Writing, and Mathematics) required for initial licensure. The board approved a score of **1000** on the SAT, taken prior to April 1, 1995, with at least **450** on the verbal and **510** on the mathematics tests or a score of **1100** on the SAT, taken after April 1, 1995, with at least **530** on the verbal and **530** on the mathematics tests as a substitute for Praxis I. The SAT® was approved as a substitute test only for Praxis I; individuals also must meet the Praxis II (subject area assessment) for initial licensure.

Currently, 28 states, the Department of Defense Dependents Schools, the Virgin Islands, the District of Columbia, and Guam use Praxis I as a requirement for licensure. Cut scores for the Praxis states are as follows:

### **PRAXIS I: ACADEMIC SKILLS ASSESSMENTS**

#### **PRE-PROFESSIONAL SKILLS TEST: MATHEMATICS (0730)**

##### **COMPUTERIZED PPST: MATHEMATICS (5730)**

AK – 173	AR - 171	CT - 171	DE - 174	DC - 174
GA - 176b	IN - 175	KY - 173	LA - 170	
ME - c	MD - *	MN - 171	MS - 169	MT - 170
NE – 171	NV - 172	NH - 172	NC - 173	ND - 170
OH - 172	OK - 171	OR - 175	PA - 173	SC - 172
TN - 173	VT - 175h	VA - 178g	VI - 170	WV - 172
WI - 173	DODDS - 175		GUAM*	

#### **PRE-PROFESSIONAL SKILLS TEST: READING (0710)**

##### **COMPUTERIZED PPST: READING (5710)**

AK - 175	AR – 172	CT - 172	DE - 175	DC - 172
GA - 176b	IN - 176	KY - 173	LA - 172	
ME - c	MD - *	MN - 173	MS – 170	MT - 170
NE – 170	NV - 174	NH - 174	NC - 176	ND - 173
OH - 173	OK - 173	OR - 174	PA - 172	SC - 175
TN - 174	VT - 177h	VA – 178g	VI - 175	WV - 174
WI - 175	DODDS - 177		GUAM*	

#### **PRE-PROFESSIONAL SKILLS TEST: WRITING (0720)**

##### **COMPUTERIZED PPST: WRITING (5720)**

AK - 174	AR - 173	CT – 171	DE – 173	DC - 171
GA - 174b	IN - 172	KY - 172	LA - 171	
ME - c	MD - *	MN - 172	MS - 172	MT - 170
NE - 172	NV - 172	NH - 172	NC - 173	ND - *
OH - 172	OK – 172	OR – 171	PA - 173	SC - 173
TN - 173	VT - 174h	VA – 176g	VI - 174	WV - 172
WI - 174	DODDS - 174		GUAM*	

#### **NOTES**

\*=Test required—passing score not set

#### **b = GEORGIA Notes**

**GA Initial Licensure (all areas)** requires (1) achieving a combined total score of 964 for all three CBT tests OR (2) meeting the passing score of 321 on CBT: Mathematics (0731), meeting the passing score of 322 on CBT: Reading (0711) and meeting the passing score of 321 on CBT: Writing (0721), OR (3) achieving a combined total score of 526 for all three PPST tests, OR (4) meeting the passing score of 176 on PPST or CPPST: Mathematics (0730, 5730), meeting the passing score of 176 on PPST or CPPST: Reading (0710, 5710) and meeting the passing score of 174 on PPST or CPPST: Writing (0720, 5720). There are no minimum scores.

#### **c = MAINE Notes**

**All Areas, K–12 (except Vocational Education)** require Praxis I CPPST or PPST scores.

(5710, 0710) CPPST/PPST Reading —176; (5720, 0720) CPPST/PPST Writing —175; (5730, 0730) CPPST/PPST Mathematics —175

**Vocational Education** requires Praxis I CPPST or PPST scores.

(0710) PPST Reading —173; (0720) PPST Writing —168; (0730) PPST Mathematics —172.

#### **g= VIRGINIA Notes**

**VA Initial Licensure (all areas)** requires either (1) achieving a combined total score of 973 for all three CBT tests or (2) meeting the passing score of 323 on CBT: Mathematics (0731), meeting the passing score of 326 on CBT: Reading (0711) and meeting the passing score of 324 on CBT: Writing (0721), **OR** (1) achieving a combined total score of 532 for all three PPST or CPPST tests or by (2) meeting the passing score of 178 on PPST or CPPST: Mathematics (0730, 5730), meeting the passing

score of 178 on PPST or CPPST: Reading (0710, 5710) and meeting the passing score of 176 on PPST or CPPST: Writing (0720, 5720). There are no minimum scores.

#### **h= VERMONT Notes**

**VT Initial Licensure (all areas)** requires either (1) achieving a combined total score of 526 for all three PPST or CPPST tests or (2) meeting the passing score of 175 on PPST or CPPST: Mathematics (0730, 5730), meeting the passing score of 177 on PPST or CPPST: Reading (0710, 5710), meeting the passing score of 174 on PPST or CPPST: Writing (0720, 5720). There are no minimum scores.

#### **Summary of Major Elements:**

Following a report from the Advisory Board on Teacher Education and Licensure on January 7, 2004, the Board of Education requested the Department of Education to conduct a review of the Praxis I scores for Virginia. The Praxis I scores had not been reviewed since the establishment of passing scores in 1995, with an effective implementation date of July 1, 1996.

In response to the request, 14 panelists were selected by the Department of Education to participate in the Praxis I Score Review held Friday, April 2, 2004, at the Marriott Richmond West Hotel. The majority of the panelists were teachers with less than five years of teaching experience. Panelists were representative of Virginia educators in terms of endorsement areas, teaching levels, gender, ethnicity, and geographic regions within the state. The panel included representatives from schools of education in institutions of higher education, the Virginia Community College System, a school division human resources office, and the Advisory Board on Teacher Education and Licensure. Ms. Ella Gaal, Regional Director for Educational Testing Service, conducted the Praxis I Score Review.

Even though less than half of the panel members recommended a new validation and standard-setting study for the Praxis I Reading test, the majority of the panel members recommended validation and standard-setting studies to be conducted for the mathematics and writing tests. This recommendation was based primarily on the fact that studies used to establish current scores for Virginia were completed 10 years ago.

On July 22, 2004, a Praxis I Re-validation and Standard-Setting Study was held in Richmond, Virginia. Twenty panelists representing Virginia educators in terms of endorsement areas, teaching levels, gender, ethnicity, and geographic regions within the state were convened for the study conducted by the Educational Testing Service. Attached is a copy of the study. The recommended study values for the Praxis I assessments based on the Re-validation and Standard-Setting Study are as follows:

Reading:	172
Writing:	177
Mathematics:	175

The Advisory Board on Teacher Education and Licensure (ABTEL) reviewed the Re-validation and Standard-Setting Study. The advisory board met on September 13, 2004, and recommended to the Board of Education the following cut scores for Praxis I:

Reading	178
Writing:	177
Mathematics:	<u>175</u>
<b>Composite:</b>	<b>530</b>

**Superintendent's Recommendation:**

The Superintendent of Public Instruction recommends that the Board of Education receive for first review ABTEL's proposed cut scores for Praxis I.

**Impact on Resources:** N/A

**Timetable for Further Review/Action:** This item will be presented for final review to the Board of Education at a future date.

# Board of Education Agenda Item

<b>Item:</b>	O
--------------	---

**Date:** September 22, 2004

**Topic:** First Review of an Advisory Board on Teacher Education and Licensure (ABTEL) Recommendation Supporting A Proposed Cut-Score for the *School Leaders Licensure Assessment (SLLA)*

**Presenter:** Dr. Thomas A. Elliott, Assistant Superintendent for Teacher Education and Licensure

**Telephone Number:** (804) 371-2522      **E-Mail Address:** telliott@mail.vak12ed.edu

**Origin:**

\_\_\_\_\_ Topic presented for information only (no board action required)

  X   Board review required by  
       State or federal law or regulation  
  X   Board of Education regulation  
 Other: \_\_\_\_\_

X Action requested at this meeting \_\_\_\_\_ Action requested at future meeting: \_\_\_\_\_ (date)

**Previous Review/Action:**

X No previous board review/action

\_\_\_\_\_ Previous review/action  
date \_\_\_\_\_  
action \_\_\_\_\_

### Background Information:

In June 1999, Educational Testing Service conducted, in cooperation with and on behalf of the Virginia Department of Education, Standard Setting and Content Validation Studies for the *School Leaders Licensure Assessment (SLLA)*. The goals of the study were to provide additional evidence regarding the content validity of the assessment and to determine a range of recommended passing scores for the *SLLA*. In addition to providing the passing score recommendations, two panels of experts—separate panels representing principals and central office administrators—also were asked to render a series of judgments attesting to the appropriateness of the *SLLA* for use in Virginia. The results supported the use of the assessment for the licensure of beginning school principals and for central office administrators in Virginia.

In Virginia, an individual may become eligible for an endorsement in administration and supervision preK-12 by completing requirements of the *Licensure Regulations for School Personnel, Effective 1998*. As part of those requirements, an individual must complete either the *SLLA* or a full-time internship as a school principal, assistant principal, or central office staff, or one year of successful, full-time experience on the job.



The scaled score that a candidate can receive on the *SLLA* ranges from a low of 100 points to a high of 200 points. The recommended passing scaled score values for the principals panel ranged from 156 to 165 scaled score points. For the central office administrators, the recommended passing score values ranged from 159 to 161 scaled score points.

The *SLLA* is a six-hour constructed response assessment organized into the following four sections: 1) **Evaluation of Actions (1 hour)**, based on 10 short vignettes covering situations a principal might encounter. In each case, candidates respond to a question that asks for next steps, factors influencing a decision, or possible consequences of an action; 2) **Evaluation of Actions II (1 hour)**, six longer vignettes, each presenting a dilemma based on typical school issues. Candidates must analyze the circumstances and respond to an analytical question that requires prioritizing action steps or articulating the relevant issues; 3) **Synthesis of Information and Problem Solving (2 hours)**, containing two case studies involving teaching and learning issues. In each case, candidates must propose a course of action to address a complex problem, referring to a set of documents and a short scenario describing a school and its community; and, 4) **Analysis of Information and Decision Making (2 hours)**, focusing on documents that relate to teaching and learning issues. Candidates must answer questions about each document.

### Summary of Major Elements:

*House Bill 573, Effective July 1, 2004*, requires the Board of Education's *Licensure Regulations for School Personnel* to require that on and after July 1, 2005, initial licensure for principals and other school leaders, as may be determined by the board, be contingent upon passage of the *SLLA*. On July 21, 2004, the *SLLA* Score Setting Review Panel convened for the purpose of developing a recommended cut-score for the *SLLA* to be presented to the Board of Education for consideration. The panel was composed of nine practicing school administrators with between two and 10 years of experience, and three representatives of higher education institutions with approved leadership preparation programs. Additionally, panel composition was based on regional representation and ethnic diversity.

The score-setting review process included a review and discussion of national performance data and the alignment between Virginia's licensure requirements and the *SLLA*. The national median score for the *SLLA* is 177. Of the nine states currently requiring a passing score, the average passing score is 157. The District of Columbia, Kansas, South Carolina, and Virginia were not included in these data since these states did not require passing scores at the time of data collection.

A report for all examinees taking the *SLLA* in Virginia between January 1, 2000, and January 31, 2004, yielded the following results:

Examinees: 232	Median: 173
High Score: 195	Mean: 172.50
Low Score: 140	St Dev.: 10.40

Panel members were first asked to review independently all materials and respond to the following items: 1) Considering all the information you have reviewed, what passing score do you recommend for Virginia's assessment purpose; and, 2) Briefly describe primary reasons for recommending this score. A group discussion of pre-consensus scores was conducted. Materials provided to the review panel are attached in Appendix A.

Based on this discussion, the panel unanimously recommended a qualifying cut-score of 165 be required in Virginia for passing the *SLLA*.

**Superintendent's Recommendation:**

The Superintendent of Public Instruction recommends that the Board of Education receive for first review ABTEL's recommendation supporting the proposed cut-score of 165 for the *School Leaders Licensure Assessment (SLLA)*, effective July 1, 2005.

**Impact on Resources:**

Costs associated with the administration of the *School Leaders Licensure Assessment (SLLA)* will be incurred by Educational Testing Services. Prospective school leaders will be required to pay a fee for test administration and reporting results to the Department of Education. Currently, the cost to individuals for test administration is approximately \$480.

**Timetable for Further Review/Action:**

Results of the administration and passing rates on the *SLLA* will be included as part of the annual Title II Higher Education Act Report to the U. S. Department of Education.

# **APPENDIX A**

- 1. School Leaders Licensure Assessment (SLLA):  
National Performance Data – pp. 1-3**
- 2. School Leaders Licensure Assessment (SLLA):  
State of Virginia Performance Data – pp. 4-5**
- 3. Virginia Licensure Regulations for Administration and Supervision  
Matched to the School Leadership Licensure Assessment  
Specifications – pp. 6-10**

# Board of Education Agenda Item

Item: \_\_\_\_\_ P \_\_\_\_\_

Date: September 22, 2004

**Topic:** First Review of Proposed Revisions to the Board of Education's Model Student Conduct Guidelines

**Presenters:** Dr. Cynthia A. Cave, Director of Student Services & Ms. Arlene D. Cundiff, Coordinator, Safe & Drug Free Schools Program

**Telephone Number(s):** 225-2818  
225-2871

**E-Mail Address:** ccave@mail.vak12ed.edu  
acundiff@mail.vak12ed.edu

## Origin:

\_\_\_\_\_ Topic presented for information only (no board action required)

☒ Board review required by  
    ☒ State or federal law or regulation  
    \_\_\_\_\_ Board of Education regulation  
    \_\_\_\_\_ Other: \_\_\_\_\_

☒ Action requested at this meeting      \_\_\_\_\_ Action requested at future meeting: \_\_\_\_\_ (date)

## Previous Review/Action:

☒ No previous board review/action

\_\_\_\_\_ Previous review/action  
    date \_\_\_\_\_  
    action \_\_\_\_\_

## Background Information:

The Board of Education's *Student Conduct Policy Guidelines* were first developed in 1994 in response to action by the 1993 General Assembly that required the board to establish such guidelines. The guidelines were last revised in 2001 to reflect numerous changes in federal and state laws, regulations, and relevant case law. The guidelines are intended to aid school boards in developing and implementing student conduct standards and policies.

The 2004 General Assembly adopted HB 513 (Marrs) and HB 1331 (Tata) that amended § 22.1-279.6 of the Code of Virginia to require self-defense and hazing, respectively, to be included in the guidelines. With the assistance of a statewide representative group, the *Virginia Student Conduct Policy Guidelines 2004* have been revised in response to this legislation and to reflect recent changes in law and emerging best practice principles. Local school boards are required to adopt and revise regulations for codes of student conduct that are consistent with, but may be more stringent than, these guidelines.

**Summary of Major Elements:**

The major sections of the guidelines include:

Section 1: Introduction (provides background and legal basis for guidelines)

Section 2: Student Conduct Policy Guidelines (addresses purpose and intent, roles and responsibilities, relationship to existing policies, disciplinary actions, short-term and long-term suspensions, expulsions, policy overview for local development, and suggestions for in-service training)

Section 3: Standards of Student Conduct (provides information on the application of policy, range of corrective disciplinary action, administrative discretion, and specific offenses to be addressed, with sample standards)

Appendix A: Code of Virginia §22.1-279.6

Appendix B: Discipline of Students with Disabilities, *Regulations Governing Special Education Programs for Children with Disabilities*

Appendix C: Sample Forms and Formats

Appendix D: Related Resources

Appendix E: Public Law 107-110, No Child Left Behind Act of 2001, Title IV, Part A, Sect. 4141, Gun-Free Requirements

**Superintendent's Recommendation:**

The Superintendent of Public Instruction recommends that the Board of Education waive first review and accept the guidelines for final review.

**Impact on Resources:**

The impact on resources will be minimal. The guidelines will be disseminated in electronic format. A modest amount will be requested to print a limited number of copies to be made available through the Department of Education.

**Timetable for Further Review/Action:**

Following review and final approval by the Board of Education, notification will be made to school divisions of the revised guidelines and their availability on the Virginia Department of Education Web site.

# **STUDENT CONDUCT POLICY GUIDELINES**

**2004**

**Virginia Board of Education**

# Acknowledgments

The Virginia Board of Education and the Virginia Department of Education express sincere appreciation to members of the 2004 Student Conduct Policy Guidelines Advisory Group who generously contributed their time and expertise to the development of these guidelines.

## 2004 Student Conduct Policy Guidelines Advisory Group

<u>Representation</u>	<u>Name</u>
Director of Alternative Education and Disciplinary Hearing Officer	Bill Sadler Hanover County Public Schools
Assistant Superintendent Support Services	Tony Valentino Hanover County Public Schools
Safe and Drug-Free Schools Coordinators	Jo Ann Burkholder, Roanoke County Public Schools Clarence Jones, Fairfax County Public Schools
School Board Attorney	Brad King Harrell & Chambliss, LLP
School Board Member	Sue Forbes Watson, Vice Chairman Hanover County School Board
School Discipline Officer	Judy Mahler Newport News City Public Schools
School Resource Officer	Steve Clark, School Safety Specialist Virginia Center for School Safety
Special Education Director	Sue Clark Stafford County Public Schools
Students	Stephanie Sutton, Thomas Dale High School Chesterfield County Public Schools Johanna Cluver, Douglas Southall Freeman High School Henrico County Public Schools
Virginia Department of Criminal Justice Services	Donna Bowman, Director Virginia Center for School Safety
Virginia School Boards Association	Elizabeth Ewing, Director Legal and Policy Services
Virginia Department of Education	Douglas Cox, Assistant Superintendent Special Education and Support Services Cynthia Cave, Director, Office of Student Services Judy Douglas, Director, Office of Dispute Resolution and Administrative Services Alveta Sutton, Specialist, Instructional Support Team Myra Shook, Specialist, Safe and Drug-Free Schools Program Arlene Cundiff, Coordinator, Safe and Drug-Free Schools Program

Editorial development services by Anne J. Atkinson, Ph.D., PolicyWorks, Ltd., Richmond, Virginia

This document may be downloaded from the Virginia Department of Education Web site at [www.pen.k12.va.us/](http://www.pen.k12.va.us/)  
For additional information, contact Arlene Cundiff at (804) 225-2871 or [acundiff@mail.vak12ed.edu](mailto:acundiff@mail.vak12ed.edu)

## Table of Contents

	Page
<b>I. INTRODUCTION.....</b>	<b>1</b>
Background .....	1
Legal Base .....	1
Statutory Authority for Guidelines .....	1
Authority and Duties of School Boards .....	2
Standards of Quality.....	2
School Board Regulations. ....	2
Removal, Suspension and Expulsion of Pupils .....	2
Alternative Education Program.....	3
Legal Responsibilities of Others .....	3
Role of the Principal and School Administration .....	3
Parental Responsibility .....	4
Reports to Law Enforcement Agencies. ....	4
<b>II. STUDENT CONDUCT POLICY GUIDELINES .....</b>	<b>5</b>
Elements of Student Conduct Policy .....	5
1. Purpose and Intent; Philosophy .....	5
2. Roles and Responsibilities .....	6
3. Relationship to Existing Policies .....	6
4. Disciplinary Action: Criteria, Procedures, and Processes. ....	7
Teacher Removal of a Student from Class.....	7
Short-term Suspensions .....	7
Long-term Suspensions .....	8
Expulsions .....	9
Expulsions for Weapons-Related Offenses .....	11
Expulsions for Drug-Related Offenses .....	12
Suspensions or Expulsions of Students with Disabilities .....	13
Admission of Students Suspended or Expelled from Another School Division or a Private School.....	13
5. Policy for Development, Dissemination and Periodic Review of Student Conduct Standards ..	14
Policy Development and Review .....	14
Dissemination of Standards .....	14
6. In-Service Training of School Personnel .....	15
<b>III. STANDARDS OF STUDENT CONDUCT .....</b>	<b>16</b>
Application of Policy .....	16
Range of Corrective Disciplinary Action .....	16
Differentiation of Sanctions by Grade Level .....	16
Other Disciplinary Consequences .....	17
Administrative Discretion.....	17
Offenses .....	17
Alcohol and Drugs .....	17
Assault; Assault and Battery .....	18
Attendance; Truancy .....	18
Bomb Threat.....	19
Bullying .....	19
Bus-Related Offenses .....	20
Cheating.....	20
Communications Devices; Laser Pointers .....	20
Disruptive Behavior.....	21
Dress Standards .....	21
Extortion.....	22



Fighting .....	22
Gambling .....	23
Gang-Related Activity .....	23
Hazing .....	24
Internet Use .....	24
Profane or Obscene Language or Conduct .....	24
Property Violations .....	25
Theft .....	25
Threats; Intimidation .....	25
Trespassing .....	26
Vandalism .....	26
Weapons or Other Dangerous Articles .....	26
Other Conduct .....	27
Self Defense .....	27
Related Policy Issues .....	28
Parental Responsibilities and Involvement .....	28
Reporting of Certain Offenses .....	29
Clarifying the Parameters of Legal and Administrative Authorities. ....	29
<b>APPENDIX A: CODE OF VIRGINIA § 22.1-279.6 .....</b>	<b>32</b>
<b>APPENDIX B: DISCIPLINE OF STUDENTS WITH DISABILITIES .....</b>	<b>37</b>
<b>APPENDIX C: SAMPLE FORMS AND FORMATS .....</b>	<b>37</b>
<b>APPENDIX D: RELATED RESOURCES .....</b>	<b>42</b>
Virginia Board of Education Guidelines .....	42
Related Virginia Regulations and Guidelines .....	42
Related Federal Regulations, and Non-Regulatory Guidance .....	43
Related Resource Materials and Publications .....	43
Other Sources of Information .....	44
<b>APPENDIX E: PUBLIC LAW 107-110, NO CHILD LEFT BEHIND ACT OF 2001, TITLE IV, PART A, SECTION 4141, GUN- FREE REQUIREMENTS .....</b>	<b>45</b>

# I. INTRODUCTION

## ***Background***

The Virginia Board of Education's *Student Conduct Policy Guidelines* were first developed in 1994 in response to action by the 1993 General Assembly requiring the Virginia Board of Education to establish such guidelines. The guidelines were revised in 2001 to reflect numerous changes in federal and state laws and regulations and relevant case law. The *Virginia Student Conduct Policy Guidelines, 2004* have been developed in response to requirements of § 22.1-279.6. of the *Code of Virginia* and reflect recent changes in law and emerging best practice principles. The guidelines are intended specifically to aid school boards in implementing student conduct policies. Local school boards are required to adopt and revise regulations on codes of student conduct that are consistent with, but may be more stringent than, these guidelines.

## ***Legal Base***

### **Statutory Authority for Guidelines**

The Virginia Board of Education is required by law (§ 22.1-279.6. of the *Code of Virginia*) to establish guidelines and develop model policies for codes of student conduct to aid local school boards in the implementation of such policies.

The guidelines and model policies are required to include, but not be limited to the following:

- (i) Criteria for the removal of a student from a class, the use of suspension, expulsion, and exclusion as disciplinary measures, the grounds for suspension and expulsion and exclusion, and the procedures to be followed in such cases, including proceedings for such suspension, expulsion, and exclusion decisions and all applicable appeals processes
- (ii) Standards, consistent with state, federal and case laws, for school board policies on alcohol and drugs, hazing, vandalism, trespassing, threats, search and seizure, disciplining of students with disabilities, intentional injury of others, self-defense, dissemination of such policies to students, their parents, and school personnel
- (iii) Standards for in-service training of school personnel in and examples of the appropriate management of student conduct and student offenses in violation of school board policies.

Procedures for suspension and expulsion are to be the minimum procedures that the school board may prescribe.

Section 22.1-279.6.C. requires the Board to establish standards to ensure compliance with the federal Improving America's Schools Act of 1994 (Part F-Gun-Free Schools Act of 1994), as amended.

Also required by § 22.1-279.6. are standards for school board policies on alcohol and drugs and search and seizure including guidance for procedures relating to voluntary and

mandatory drug testing in schools. *Guidelines Regarding Student Searches in Public Schools* were adopted by the Virginia Board of Education in 1999 and *Guidelines Concerning Student Drug Testing in Virginia Public Schools* were adopted by the Board in 2004. These guidelines can be found on the Virginia Department of Education Web site at <http://www.pen.k12.va.us/>.

## **Authority and Duties of School Boards**

### ***Standards of Quality***

Section 22.1-253.13:7.D.3. of the *Code of Virginia* (part of the section of the Code known as the Standards of Quality) requires local school boards to maintain and follow an up-to-date policy manual that includes “standards of student conduct and attendance and enforcement procedures designed to provide that public education be conducted in an atmosphere free of disruption and threat to persons or property and supportive of individual rights.” Local school boards must give consideration to the views of teachers, parents, and other concerned citizens in the development of policies.

### ***School Board Regulations***

Section 22.1-78. of the *Code* authorizes local school boards to adopt bylaws and regulations “for its own government, for the management of its official business and for the supervision of schools, including but not limited to the proper discipline of students, including their conduct going to and returning from school.”

Section 22.1-279.6.B. of the *Code* requires local school boards to adopt and revise regulations on codes of student conduct that are consistent with, but may be more stringent than, the guidelines of the Board. School boards are required to include procedures for suspension, expulsion, and exclusion decisions, to biennially review student conduct code guidelines, and to include prohibitions against hazing and profane or obscene language or conduct. School boards are authorized to regulate certain communications devices and, at their discretion, require or encourage drug testing.

Section 22.1-279.9. of the *Code* requires school boards, in cooperation with the local law-enforcement agencies, juvenile and domestic relations court judges and personnel, parents, and the community at large, to develop programs to prevent violence and crime on school property and at school-sponsored events.

### ***Removal, Suspension and Expulsion of Pupils***

Section 22.1-276.2. of the *Code* gives teachers initial authority to remove a student from a class for disruptive behavior and requires all school boards to establish the criteria for teachers to remove disruptive students, requirements for reporting incidents of disruptive behavior, procedures for written notification to a student and the student’s parents, guidelines for alternative assignment and instruction of such students, and procedures for the return of students to class and teacher participation in the decision.

Section 22.1-277. of the *Code* authorizes the suspension or expulsion of pupils “for sufficient cause,” including acts off school property when the acts lead to an adjudication of delinquency, a conviction of certain offenses, or a charge that would be a felony if committed by an adult.

Authorization for short-term suspensions (10 school days or less) and procedures for suspension and for readmission are set forth in § 22.1-277.04. of the *Code*.

Authorization for long-term suspensions (more than 10 school days but less than 365 calendar days) and procedures for suspension and for readmission are set forth in § 22.1-277.05. of the *Code*.

Authorization for expulsion and procedures for expulsion and for readmission are set forth in § 22.1-277.06. Recommendations for expulsion for other than weapons and drug offenses are required to be based on consideration of factors specified in the *Code*, including the nature and seriousness of the violation and the student's disciplinary history.

Section 22.1-277.07. of the *Code* requires school boards to expel students who bring a firearm or other destructive device (defined in the Section) onto school property or to a school-sponsored event in violation of the Gun-Free Schools Act of 1994. School boards are authorized to consider factors listed in § 22.1-277.06. in determining "special circumstances" in particular cases that would justify another disciplinary action.

Section 22.1-277.08. of the *Code* requires school boards to expel students who bring a controlled substance, imitation controlled substance, or marijuana onto school property or to a school-sponsored event. School boards are authorized to consider factors listed in § 22.1-277.06. in determining "special circumstances" in particular cases that would justify another disciplinary action.

### ***Alternative Education Program***

Section 22.1-277.2:1. of the *Code* authorizes school boards to require any student to attend an alternative education program under prescribed circumstances. Procedures to be followed when requiring an alternative education program are also prescribed. It should be noted that alternative education programs are authorized but not required by the *Code* to be established.

School boards may require any student who has been found in possession of, or under the influence of, drugs or alcohol on a school bus, on school property, or at a school-sponsored activity to undergo evaluation for drug or alcohol abuse, or both, and, if recommended by the evaluator and with the consent of the student's parent, to participate in a treatment program.

## **Legal Responsibilities of Others**

### ***Role of the Principal and School Administration***

The Virginia Standards of Accreditation (2000), Section 8 VAC 20-131-210.A., states that the principal "is recognized as the instructional leader of the school and is responsible for effective school management that promotes positive student achievement, a safe and secure environment in which to teach and learn, and efficient use of resources." Section B.2. specifies that the principal shall "ensure that the school division's student code of conduct is enforced and seek to maintain a safe and secure school environment." Section 8 VAC 20-131-260.C.3., requires a school administration to ensure "a written procedure, in accordance with guidelines established by the local board, for responding to violent, disruptive or illegal activities by students on school property or during a school-sponsored activity."

***Parental Responsibility***

Section 22.1-279.3. of the *Code of Virginia* sets forth the duty of each parent of a student enrolled in a public school to assist the school in enforcing the standards of student conduct and compulsory school attendance. Procedures are set forth for notifying parents of their responsibilities, documenting the notification, and taking steps against parents for willful and unreasonable refusal to participate in efforts to improve their child's behavior or school attendance. Each parent of a student must sign a statement acknowledging the receipt of the school board's standards of student conduct and return it to the school.

***Reports to Law Enforcement Agencies.***

Section 22.1-279.3:1.A. of the *Code of Virginia* lists certain offenses that school officials are required to report to local law-enforcement agencies. Additional information about this requirement and a list of reportable offenses are on page 28 of these guidelines.

## II. STUDENT CONDUCT POLICY GUIDELINES

### *Elements of Student Conduct Policy*

School board policies on student conduct should address certain basic elements including the following:

1. Statement of purpose and intent and/or philosophy
2. Roles and responsibilities for student conduct policy
3. Relationship to related policies and regulations
4. Disciplinary action criteria, procedures, and processes
5. Policy for the development, dissemination and periodic review of standards of student conduct
6. Training of school personnel
7. Standards for student conduct

Described below are each of the basic elements listed with corresponding sample policy statements. Section 22.1-279.6.B. of the *Code* requires local school boards to adopt and revise regulations on codes of student conduct that are consistent with, but may be more stringent than, the guidelines of the Board of Education.

#### **1. Purpose and Intent; Philosophy**

Local school board policy on student conduct should include a statement of purpose and intent consistent with Virginia law. Examples of statutory language are as follows:

- The Standards of Quality (§ 22.1-253.13.7.D.3.) require standards and procedures “designed to provide that public education be conducted in an atmosphere free of disruption and threat to persons or property and supportive of individual rights.”
- Section 22.1-279.3. sets forth parental responsibility and involvement requirements “in order that education may be conducted in an atmosphere free of disruption and threat to persons or property, and supportive of individual rights.”
- Section 22.1-279.6. of the *Code* makes reference to incorporating discipline options and alternatives “to preserve a safe, non-disruptive environment for effective teaching and learning.”

***Sample Statements of Purpose and Intent***

- The development, implementation, and enforcement of the student conduct policy is intended to ensure a safe, non-disruptive environment for effective teaching and learning.
- Standards of student conduct are designed to protect the health, safety and welfare of students.
- It is the belief of the (name of school board) that all students have the right to an environment that is safe, drug-free, and conducive to learning. To that end, the student conduct policy sets forth standards for student conduct.
- The primary objectives of the standards of student conduct are (1) to provide standards and guidelines for student behavior; (2) to assist the student in becoming a responsible, productive, and self-disciplined citizen; and (3) to maintain a safe and orderly environment in the classroom and all other areas of the school.

## **2. Roles and Responsibilities**

Local school board policies should clearly define the roles and responsibilities of the school board, the superintendent, principals, teachers, and other staff with responsibility for enforcement of student conduct standards. Information about the duty of parents to assist the school in enforcing the standards of student conduct and compulsory school attendance also is appropriate to be included. A general statement about student rights and responsibilities also may be included, particularly when the local standards of student conduct articulate student rights and responsibilities related to specific conduct.

***Sample Statement on Roles and Responsibilities***

School board members, school personnel, parents, and students share the responsibility to create and maintain a school environment that is safe and conducive to learning. It is the responsibility of the School Board to adopt policies and regulations. The superintendent has responsibility to issue standards of student conduct including a list of corrective disciplinary actions for violation of the standards. The school principal has responsibility to enforce the student conduct standards using reasonable judgment. Each parent has a duty to assist the school in enforcing the standards of student conduct and compulsory school attendance. Students are expected to attend school regularly and to demonstrate good citizenship, enjoying the rights and fulfilling responsibilities set forth in the student conduct standards.

## **3. Relationship to Existing Policies**

The relationship of the student conduct policy to other related local policies, rules, and regulations should be explicitly stated. Other related local policies may include, but are not limited to, those governing student searches, drug testing, attendance, and discipline of

students with disabilities. Relevant sources such as federal and state regulations and guidance may be cross-referenced. A list of such regulations, guidelines, and credible resource publications and sources is included as Appendix D.

#### **4. Disciplinary Action: Criteria, Procedures, and Processes**

##### ***Teacher Removal of a Student from Class***

Local school board policy should cite the initial authority of teachers to remove a student from a class for disruptive behavior and, in accordance with § 22.1-276.2. of the *Code*, is required to establish the following:

1. Criteria for teachers to remove disruptive students from their classes
2. Requirements for incident reports of disruptive behavior to school administrators and any other documentation to support such removals from class
3. Procedures for the written notification of a student and the student's parents of any incident report and its contents and for the opportunity to meet with the teacher and school administrators to discuss the student's behavior and the possible consequences if such behavior does not cease
4. Guidelines for the alternative assignment and instruction of such students and for the duration of such removals
5. Procedures for the return of students to class, for teacher participation in any decision by the principal to return a student to the class from which the student has been removed, and for the resolution of any disagreements between the principal and teacher regarding the return.

"Disruptive behavior" is defined in § 22.1-276.2. of the *Code* as conduct that interrupts or obstructs the learning environment.

##### ***Sample Statement on the Removal of a Student from Class***

Teachers shall have the initial authority to remove a student from a class for disruptive behavior that interrupts or obstructs the learning environment, using the following criteria:

- 1) The removal of the student is necessary to restore a learning environment free from interruptions or obstructions caused by the student's behavior.
- 2) The removal of the student occurs only after teacher or administrative interventions have failed to end the disruptive behavior. However, nothing shall preclude the immediate removal of a student for behavior that might warrant suspension from school.
- 3) The removal of a student is an appropriate response to student behavior that is a violation of the rules of conduct.
- 4) Written notice of the student's behavior and removal from class is given to the parent by the teacher.

##### ***Short-term Suspensions***

"Short-term suspension" is defined in § 22.1-277.04. of the *Code* as any disciplinary action whereby a student is not permitted to attend school for a period not to exceed 10 school days.

A local school board policy should cite the authority to suspend a student, and include procedures for notice to the student, reporting to the parent and division superintendent,



review upon petition, and for appeal consistent with § 22.1-277.04. of the *Code*. School boards may prescribe in regulation whether appeals of short-term suspensions may be made to the school board, a committee thereof, or to the division superintendent or his designee. "Superintendent's designee" is defined in § 22.1-276.01.B. as a "(i) trained hearing officer or (ii) professional employee within the administrative offices of the school division who reports directly to the division superintendent and who is not a school-based instructional or administrative employee."

A school board policy must require, in accordance with § 22.1-277.04. of the *Code*, that any oral or written notice to the parent of a student suspended from school for not more than 10 school days include the following:

- The length of the suspension,
- Information regarding the availability of community-based educational programs, alternative education programs or other educational options and
- The student's right to return to regular school attendance upon the expiration of the suspension.

A school board may include a statement specifying that the costs of any community-based educational program, or alternative education program or educational option, which is not a part of the educational program offered by the school division, is the responsibility of the parent of the student. A decision of the division superintendent or designee may be appealed to the school board or its committee, in accordance with local school board regulations.

***Sample Statement on Short-Term Suspension***

A student may be suspended out-of-school for violations of the Code of Conduct. For out-of-school suspensions of 10 days or less, the school administrator shall inform the student of the specific violation and provide the student with opportunities to respond to the charges. The student may present the student's version of what occurred. When the school suspends a student, the school shall 1) notify the student of the right to appeal; 2) make a reasonable effort to notify the student's parent of the suspension, inform the parent that a copy of the rules governing suspensions and the procedures for appeal are being sent home with the student, and make arrangements for the student's return home; and 3) send written notification to the parent informing the parent of the suspension, of its reason, the length of the suspension, the right to appeal, the student's right to return to school, and any conditions for that return.

***Long-term Suspensions***

"Long-term suspension" is defined in § 22.1-277.05. of the *Code* as any disciplinary action whereby a student is not permitted to attend school for more than ten school days but less than 365 calendar days.

A local school board policy should cite the authority to suspend a student and establish procedures for written notice to the pupil and parent of the action, its reason, and right to appeal in accordance with § 22.1-277.05. of the *Code of Virginia*. A school board may prescribe in regulation whether appeals of long-term suspensions may be to the school board, a committee thereof, or the division superintendent or his designee. If regulations

provide for a hearing by the superintendent or designee, the regulations must provide for an appeal of the decision to the full school board and such an appeal must be decided by the school board within thirty days. If the regulations provide for a hearing by a committee of the school board, the regulations must provide that the committee may confirm or disapprove the suspension of a student. The committee must be composed of at least three members and, if the committee's decision is not unanimous, the pupil or the pupil's parent may appeal the committee's decision to the full school board. Such an appeal must be decided by the school board within thirty days.

School board policy must require that the written notice of a suspension for more than ten days include the following:

- The length of the suspension
- Information concerning the availability of community-based educational, alternative education, or intervention programs
- The student's eligibility to return to regular school attendance upon the expiration of the suspension or to attend an appropriate alternative education program approved by the school board during or upon the expiration of the suspension.

A school board may include a statement specifying that the costs of any community-based educational program, or alternative education program or educational option, which is not a part of the educational program offered by the school division, is the responsibility of the parent of the student.

School board policy may permit or require students suspended for more than 10 days to attend an alternative education program provided by the school board for the term of the suspension in accordance with procedures set forth in § 22.1-277.2:1. of the *Code*. Alternative education programs are authorized but not required to be established.

#### ***Sample Statement on Long-Term Suspension***

A student may be suspended for more than 10 days following a hearing before a hearing officer designated by the superintendent. For certain offenses, a student may be suspended for the remainder of the semester or the school year. The school administration may determine that transfer to another school serves the best interest of the student and the school.

The discipline committee of the school board may confirm or disapprove the suspension of a student. A hearing shall be held before the discipline committee within ten days of the date of notice from the principal. If the decision of the three-member committee to uphold the suspension is unanimous, there is no right of appeal. If, however, the decision of the committee is not unanimous, the student and his/her parent/guardian may appeal the decision to the full board.

When a student is placed on long-term suspension, written notice of the expulsion shall be sent in accordance with state law.

#### ***Expulsions***

"Expulsion" is defined in § 22.1-277.06. of the *Code of Virginia* as "any disciplinary action imposed by a school board or a committee thereof, as provided in school board policy, whereby a student is not permitted to attend school within the school division and is ineligible for readmission for 365 calendar days after the date of the expulsion."

A local school board policy should cite the authority to expel a student and establish the procedures for written notice to the pupil and parent of the action, its reason, and right to a hearing and confirmation in accordance with § 22.1-277.06. of the *Code* and with regulations of the school board. A school board may prescribe in regulation whether the hearing is before the school board or a committee thereof. If the regulations provide for a hearing by a committee of the school board, the regulations must also provide that the committee may confirm or disapprove the expulsion. The committee must be composed of at least three members and, if the committee's decision is not unanimous, the pupil or pupil's parent may appeal the committee's decision to the full school board. Such an appeal must be decided by the school board within thirty days. School board policy must also provide for confirmation or disapproval of a proposed expulsion by the school board or a committee thereof, regardless of whether the pupil exercises the right to a hearing.

The school board policy must require, in accordance with § 22.1-277.06. of the *Code*, that the written notice of expulsion include the following:

- The length of the expulsion
- Information to the parent of the student concerning the availability of community-based educational, training, and intervention programs
- Whether or not the student is eligible to return to regular school attendance, or to attend an appropriate alternative education program approved by the school board, or an adult education program offered by the school division, during or upon the expiration of the expulsion
- A notice advising that the student may petition the school board for readmission to be effective one calendar year from the date of the student's expulsion, if the school board determines that the student is ineligible to return to regular school attendance or to attend during the expulsion an alternative education program or an adult education program in the school division
- The terms and conditions, if any, under which readmission may be granted.

A school board may include a statement specifying that the costs of any community-based educational program, or alternative education program or educational option, which is not a part of the educational program offered by the school division, is the responsibility of the parent of the student.

School board policy may permit or require students expelled to attend an alternative education program provided by the school board for the term of the expulsion in accordance with procedures set forth in § 22.1-277.2:1. of the *Code*. Alternative education programs are authorized but not required to be established.

A school board must establish, by regulation, a schedule by which pupils who have been expelled may apply and reapply for readmission to school. The schedule must be designed to ensure that the hearing or ruling on any initial petition for readmission, if granted, would enable the student to resume school attendance one calendar year from the date of the expulsion. Some school divisions develop an individualized plan or contract for expelled students specifying conditions the student must meet for readmission and actions the student has agreed to take to meet the conditions.

Recommendations for expulsion for other than weapons- and drug-related violations (specified in §§ 22.1-277.07. and 22.1-277.08. of the, *Code*) are required to be based on a consideration of factors listed below:

1. The nature and seriousness of the violation
2. The degree of danger to the school community
3. The student's disciplinary history, including the seriousness and number of previous infractions
4. The appropriateness and availability of an alternative education placement or program
5. The student's age and grade level
6. The results of any mental health, substance abuse, or special education assessments
7. The student's attendance and academic records
8. Other matters as deemed to be appropriate.

It should be noted that no decision to expel a student may be reversed on the grounds that the above factors were not considered. These factors may be considered by a school board as "special circumstances" in cases involving weapons- and drug-related violations when determining whether a pupil will be provided an alternative educational placement.

### ***Sample Statement on Expulsion***

A student may be expelled only by action of the school board or a disciplinary committee of the school board based on the recommendation of the principal and the superintendent.

In the case of a recommendation for expulsion by the principal, the superintendent or his designee shall conduct a review of the recommendation. The review shall take into account the following factors:

1. The nature and seriousness of the violation
2. The degree of danger to the school community
3. The student's disciplinary history, including the seriousness and number of previous infractions
4. The appropriateness and availability of an alternative education placement or program
5. The student's age and grade level
6. The results of any mental health, substance abuse, or special education assessments
7. The student's attendance and academic records
8. Such other matters as deemed to be appropriate.

If the superintendent/designee upholds the recommendation, a hearing shall be held before the discipline committee within 10 days of the date of notice from the principal. If the decision of the three-member committee to uphold the expulsion is unanimous, there is no right of appeal. If, however, the decision of the committee is not unanimous, the student and his/her parent or guardian may appeal the decision to the full board.

When a student is expelled, written notice of the expulsion shall be sent in accordance with state law. The superintendent or his designee shall establish a schedule by which pupils who have been expelled may apply and reapply for readmission to school.

### ***Expulsions for Weapons-Related Offenses***

School board policy, in accordance with § 22.1-277.07. of the *Code of Virginia*, must provide for the mandatory expulsion for a period of not less than one year (365 days) of any student determined to have brought a firearm or destructive device onto school property or to a school-sponsored activity. Definitions of "firearm" and "destructive devices" are set forth in § 22.1-277.07.E. of the *Code*, and are consistent with the federal Gun-Free Schools Act. A copy of this Act is included as Appendix E. This prohibition does not apply to Junior Reserve

Officers Training Corps (JROTC) programs or to the possession of firearms as part of the curriculum or other programs sponsored by the schools or other organization permitted by the school to use its premises.

A school board may establish policies and promulgate related guidelines for determining whether "special circumstances" exist that would allow for no disciplinary action or another disciplinary action, based on the facts of a particular situation. A school board may, by regulation, authorize the division superintendent or designee to conduct a preliminary review of such cases.

A school board policy may permit or require students expelled for weapons-related offenses to attend an alternative education program provided by the school board for the term of the expulsion.

***Sample Statement on Expulsion for Weapons-Related Offense***

Any student determined to be in possession of or to have brought any prohibited weapon onto school property or to a school-sponsored activity shall be expelled for a period of not less than one year (365 days). However, the school board may determine, based on the facts of a particular case, that special circumstances exist and another disciplinary action or term of expulsion is appropriate. The division superintendent may conduct a review in such cases to determine whether a disciplinary action other than expulsion is appropriate, and recommend that action to the school board for final determination.

***Expulsions for Drug-Related Offenses***

A school board policy, in accordance with § 22.1-277.08. of the *Code of Virginia*, must provide for the mandatory expulsion for a period of not less than one year of any student determined to have brought a controlled substance, imitation controlled substance, or marijuana as defined in § 18.2-247. onto school property or to a school-sponsored activity.

"One year" is defined as 365 days as required in federal regulation.

A school board may establish policy and promulgate related guidelines for determining whether "special circumstances" exist that would allow for no disciplinary action or another disciplinary action, based on facts of a particular situation. A school board may, by regulation, authorize the division superintendent or his designee to conduct a preliminary review of such cases.

School board policy may permit or require students expelled for drug-related offenses to attend an alternative education program provided by the school board for the term of the expulsion.

***Sample Statement on Expulsion for Drug-Related Offense***

Any student determined to have distributed or manufactured a controlled substance including anabolic steroids or prescription drugs, an imitation controlled drug, or other prohibited substance on school property or at a school-sponsored activity shall be expelled for a period of not less than one year. However, the school board may determine, based on the facts of a particular case, that special circumstances exist and another disciplinary action or term of expulsion is appropriate. The division superintendent may conduct a review in such cases to determine whether a disciplinary action other than expulsion is appropriate, and recommend that action to the school board for final determination.

***Suspensions or Expulsions of Students with Disabilities***

Local school board policy should specify, at a minimum, that suspensions and/or expulsions of students with disabilities will be in compliance with state regulations and federal law. Reference may be made to *Regulations Governing Special Education Programs for Children with Disabilities* (2002) that are available from the Virginia Department of Education Web site at <http://www.pen.k12.va.us/>. Additional information on students with disabilities is included in Appendix B.

***Admission of Students Suspended or Expelled from Another School Division or a Private School***

Section 22.1-277.2. of the *Code* authorizes the exclusion of a student suspended or expelled from another school division or a private school upon a finding that the student presents a danger to the other students or staff of the school division. This action is permitted after:

- (i) Written notice to the student and student's parent that the student may be subject to exclusion, the reasons therefor, and, in the event of such exclusion, the right to appeal the decision at a hearing before the school board or a committee thereof; and
- (ii) Review of the case by the division superintendent or designee and recommendation of exclusion.

In cases where the suspension is for more than thirty days, the term of the exclusion may not exceed the duration of such suspension.

In cases of expelled students, the local school board may accept or waive any or all of any conditions for readmission imposed upon such a student by the expelling school board, but may not impose additional conditions for readmission to school.

A school board policy should cite the authority to exclude such students and establish procedures in accordance with § 22.1-277.2. of the *Code*. A school board may, but is not required, to permit students excluded to attend an alternative education program provided by the school board for the term of such exclusion.

***Sample Statement for Admission of Students Suspended or Expelled from Another School Division***

A student who has been expelled or suspended for more than 30 days from attendance at school by a school board or a private school, or for whom admission has been withdrawn by a private school, may be excluded from attendance for no more than one calendar year in the case of expulsion or withdrawal of admission, and in the case of suspension of more than 30 days, for not longer than the duration of such suspension. The school shall provide written notice to the student and his or her parent of the reasons for such possible exclusion and of the right to a hearing conducted by the division superintendent. The student may not attend school until a review of the case is conducted by the division superintendent. Exclusion shall be imposed upon a finding that the student presents a danger to the other students or staff members of the school division. The decision to exclude the student shall be final unless altered by the school board after timely written petition. Upon the expiration of the exclusion, the student may petition the division superintendent for admission.

## **5. Policy for Development, Dissemination and Periodic Review of Student Conduct Standards**

### ***Policy Development and Review***

A school board policy should provide for the systematic review and update of existing policies, related regulations, and student conduct standards on an annual basis. The policy review process should involve, at a minimum, school board counsel, administrators most directly involved with student discipline (e.g., disciplinary hearing officer), and representatives of school-based administrators, teachers, students, and parents. Consultation with law enforcement and juvenile court officials and with other community agencies can be very beneficial.

The review should examine not only relevant statutory and case law and regulations, but also consider the policy and programmatic implications of local discipline data. This type of comprehensive review has been demonstrated to yield information useful in updating policy and in improving the effectiveness of its implementation. A comprehensive review also can be helpful in designing effective in-service training on student conduct policies for administrators and other staff.

***Sample Statement on Review and Revision of Standards of Student Conduct***

An annual evaluation of the Standards of Student Conduct will be conducted within a month of the close of school. Revision, if necessary, will be completed prior to the opening of the next school year.

### ***Dissemination of Standards***

Local school boards must provide written copies of the school board's standards of student conduct to students, parents of enrolled students, and school personnel. The format for written dissemination should be one that is understandable to students, parents, and school personnel and may include, but not be limited to, statements of student rights and responsibilities, rules of conduct, and disciplinary procedures. School boards in localities with substantial numbers of non-English-speaking populations may require the translation of the standards and related materials.

Student conduct standards may be published as a simple, stand-alone document or as part of a more lengthy, comprehensive handbook. School boards should determine the format and content most suited to local need. Some school divisions have included letters from local juvenile judges stating court positions on such matters as parent responsibilities, school attendance, and student conduct. A glossary may be included to aid understanding of terminology. Some school divisions have developed separate documents detailing due process procedures that are given to pupils when disciplinary action is taken against them.

Dissemination procedures may include student and faculty orientations and other activities designed to ensure that each student has an opportunity to become familiar with the conduct standards. Some school divisions require classroom teachers to review standards with their students and others administer quizzes to assess student understanding of rules and consequences. Appropriate adaptations should be employed for students with disabilities. Procedures should address also the dissemination of standards to students who enroll after the beginning of the school year and to their parents.

***Sample Statement on Distribution of Standards of Student Conduct***

A copy of the Standards of Student Conduct will be issued to all students within one month of the opening of school. All transfer students will be issued a copy of the Standards as a part of the registration process. Principals will stress to all students that compliance with the Standards is mandatory. The "Acknowledgment of Parent Responsibility" form must be signed by the parent or guardian and returned to the school.

Each year, during the first week of school, all students will be provided a period of instruction on the contents of the Standards of Student Conduct. This instruction will be followed by an assessment appropriate to the student's grade level.

## **6. In-Service Training of School Personnel**

Effective training of administrators and other staff with responsibility for implementation of student conduct policy is critical. Such training should be designed to include, but not be limited to, the following:

- Purpose and intent of student conduct policy
- Specific staff roles and responsibilities for implementing student conduct policy
- Standards for student conduct
- Disciplinary processes and procedures
- Requirements and procedures for reporting offenses to local law enforcement authorities
- Relationship of student conduct policy to other policies and procedures

Such training should be designed to equip school personnel with a knowledge of best practices for effective conduct policy implementation. The use of methods such as scenarios and table-top exercises have been demonstrated to be effective for such training. At the discretion of a local school board, depending on local conditions, consideration may be given to also including content on cultural awareness, gang awareness, and bullying prevention and intervention.



### III. STANDARDS OF STUDENT CONDUCT

#### Application of Policy

Local school board policies and/or regulations should state explicitly the following:

- Standards of student conduct apply to all students under the jurisdiction of a school board.
- Disciplinary action will be determined based on the facts of each incident in the reasonable discretion of the school board and other appropriate school officials.
- Students are subject to corrective disciplinary action for misconduct that occurs:
  - in school or on school property
  - on a school vehicle
  - while participating in or attending any school sponsored activity or trip
  - on the way to and from school and
  - off school property, when the acts lead to (1) an adjudication of delinquency or a conviction for an offense listed in § 16.1-305.1. of the *Code of Virginia* (unlawful purchase, possession or use of a weapon, homicide, felonious assault and bodily wounding, criminal sexual assault, manufacture, sale, gift, distribution or possession of Schedule I or II controlled substances or marijuana, arson, and related crimes, and burglary and related offenses), criminal street gang activity or recruitment for such activity, or (2) a charge that would be a felony if committed by an adult.

#### Range of Corrective Disciplinary Action

Codes of student conduct should identify a range of corrective disciplinary actions available to school administrators in response to misconduct. The options and alternatives may range from admonition to mandatory expulsion, and may include but not be limited to the following:

- Admonition and counseling
- Parent/pupil conference
- Modification of student classroom assignment or schedule
- Student behavior contract
- Referral to student support services
- After-school or in-school detention
- Suspension of student privileges for a specified period
- Removal from class
- Initiation of child study process
- Referral to in-school intervention, mediation, or community service programs
- Short-term suspension
- Long-term suspension
- Recommendation for expulsion
- Mandatory expulsion

#### ***Differentiation of Sanctions by Grade Level***

Options for corrective disciplinary action for misconduct may be differentiated by grade level.

### ***Other Disciplinary Consequences***

A school board may allow a student who has been suspended to complete academic assignments during the period of suspension in accordance with conditions established by the school board.

School board policy may provide for ongoing consequences after a student returns to school following suspension or expulsion including, but not limited to, probationary status requiring satisfactory performance and conduct, limitations of privileges, community service, or restitution.

### **Administrative Discretion**

The degree of administrator discretion in determining appropriate disciplinary action granted by a school board is critical to the effectiveness of a school division's discipline policy and constitutes an issue that merits careful consideration. School boards have a legitimate interest in the consistency and fairness of policy implementation across school sites. To ensure greater consistency, some school boards have prescribed certain minimum and maximum disciplinary actions, others have identified levels of action appropriate for specified offenses, and many have limited discretion in cases of very serious offenses. A closely related issue is planning for the training of school personnel in disciplinary policy, its enforcement, and disciplinary procedures.

### **Offenses**

Definitions of offenses that are also violations of law should be consistent with statutory definitions. When offenses are not defined in the *Code of Virginia*, definitions developed for the Virginia Department of Education *Annual Discipline, Crime, and Violence Report* may be helpful in establishing local operational definitions.

### ***Alcohol and drugs***

Student conduct policy for alcohol and drugs should address the possession, use, consumption, purchase, distribution, manufacture, and/or sale of restricted substances on school property, on school vehicles, or during school sponsored activities on or off school property. This includes, but may not be limited to, tobacco products, anabolic steroids, inhalants, stimulants, depressants, hallucinogens, marijuana, imitation and look-alike drugs, drug paraphernalia, any prescription or non-prescription drug possessed in violation of school board policy, and other controlled substances defined in the Drug Control Act, Chapter 15.1. of Title 54 of the *Code of Virginia*.

School boards may consider the use of graduated sanctions in which a substance abuse prevention/intervention program is available to students in cases of first possession or use violations. A student assistance program can serve as an important programmatic element for substance abuse prevention, intervention, and linkage to treatment.

School boards, in accordance with § 22.1-277.2:1. of the *Code*, may require any student who has been found in possession of, or under the influence of, drugs or alcohol in violation of school board policy to undergo evaluation for drug or alcohol abuse, or both, and, if recommended by the evaluator and with the consent of the student's parent, to participate in a treatment program.

**Sample Conduct Standard: Alcohol and Other Drugs**

A student may not possess, use, or distribute alcohol, tobacco and/or tobacco products, and other drugs on school grounds, on school buses, or during school activities, on or off school property. This includes, but may not be limited to, smokeless tobacco, anabolic steroids, look-alike drugs, drug paraphernalia, and any drug not prescribed for the student by a physician.

Any student who possesses or uses prohibited substances may participate in prevention and intervention activities deemed appropriate by the superintendent.

**Assault; Assault and Battery**

An *assault* is a threat of bodily injury. A *battery* is any bodily hurt, however slight, done to another in an angry, rude or vengeful manner.

Student conduct policy should specifically prohibit the threatening or physical assaulting of students and of staff. Other related offenses that may be included as part of student conduct standards include sexual assault or battery (including improper touching), mob assault, and bullying.

**Sample Conduct Standard: Assault**

The following violations shall result in disciplinary action and may require mandatory sanctions:

- 1) Threatening or physically assaulting another student or another person (other than a staff member) who has reason to be at school, whether or not causing injury, shall result in disciplinary measures up to and including a 10-day suspension and a recommendation for expulsion.
- 2) Physically assaulting a school staff member shall result in suspension from school for up to 10 days, and the principal may recommend expulsion. In the event of injury to the staff member, expulsion shall be recommended.

**Attendance; Truancy**

Attendance requirements may be included as part of student conduct policy or may be addressed elsewhere in policy at the discretion of the school board. The policy should establish an expectation for regular attendance, criteria for absences to be excused, and applicable academic and disciplinary consequences of nonattendance and tardies. The comprehensive policy should address parental responsibilities, duties of the school division's attendance officer, and procedures for taking action against the child and/or parent for failure to comply with applicable law.

According to § 16.1-228.A. of the *Code of Virginia*, a "child in need of supervision" who is truant means:

- A child who, while subject to compulsory school attendance, is habitually and without justification absent from school, and
- The child has been offered an adequate opportunity to receive the benefit of any and all educational services and programs that are required to be provided by law and which meet the child's particular educational needs, and

- The school system from which the child is absent or other appropriate agency has made a reasonable effort to affect the child's regular attendance without success, and
- The school system has provided documentation that it has complied with the provisions of § 22.1-258 that address actions to be taken when a pupil fails to report to school.

***Sample Conduct Standard: Attendance***

Student attendance is a cooperative effort; schools shall involve parents and students in accepting responsibility for regular attendance.

Each parent or guardian of a child within the compulsory school attendance age shall be responsible for the child's regular and punctual attendance at school as required by law.

Students shall attend school on a regular and punctual basis unless otherwise excused in accordance with school board regulation.

***Bomb Threat***

School board policy should specifically prohibit bomb threats. Other related offenses that may be constitute components of a comprehensive policy include, but are not limited to, conduct involving firebombs, explosives, incendiary devices or chemical bombs.

Threats to bomb or damage buildings and giving false information as to danger to such buildings are prohibited by § 18.2-83. of the *Code of Virginia*. Definitions of "explosive material," "fire bomb," and "hoax explosive device" are defined in § 18.2-85. of the *Code*.

***Sample Conduct Standard: Bomb Threat***

Students shall not engage in any illegal conduct involving firebombs, explosive or incendiary materials or devices, or hoax explosive devices, or chemical bombs as defined in the *Code of Virginia*. Moreover, students shall not make any threats or false threats to bomb other students, school personnel or property.

***Bullying***

According to the National Center for Education Statistics, [*Indicators of School Crime and Safety*, 2002 (July 2004)], bullying can contribute to a climate of fear and intimidation in schools. Bullying is not specifically defined in Virginia law. Patterns of behavior associated with bullying that are criminal offenses are as follows:

Assault	Larceny
Battery	Robbery
Extortion	Theft
False Imprisonment	Threats
Hazing	Sexual harassment

Non-criminal behavior associated with bullying includes intimidation, taunting, name-calling, and insults. The definition developed for the Virginia Department of Education *Annual*

*Discipline, Crime, and Violence Report* is “repeated negative behaviors intended to frighten or cause harm” that may include, but are not limited to, verbal or written threats or physical harm.

***Sample Conduct Standard: Bullying***

Students, either individually or as part of a group, shall not harass or bully others. The following conduct is illustrative of bullying:

- Physical intimidation, taunting, name calling, and insults
- Comments regarding the race, gender, religion, physical abilities or characteristics of associates of the targeted person
- Falsifying statements about other persons

***Bus-Related Offenses***

School board policy should clearly communicate that rules governing student conduct apply not only at school but also on a school vehicle, while on a school-sponsored trip, and on the way to and from school, including at the bus stop.

***Sample Conduct Standard: Bus-Related Conduct***

Students are required to conduct themselves on school buses in a manner consistent with established standards for classroom behavior. Students who become disciplinary problems on school buses shall be reported to the principal by the driver and may have their riding privileges suspended. Students are also subject to the same disciplinary action as would be prescribed had the behavior occurred at school.

***Cheating***

Cheating is not defined in the *Code of Virginia*. A student conduct policy may address cheating as a single offense or approach it as one of several offenses related to integrity.

***Sample Conduct Standard: Cheating***

Students are expected to perform honestly on any assigned schoolwork or tests. The following actions are prohibited:

- Cheating on a test or assigned work by giving, receiving, offering, and/or soliciting information
- Plagiarizing by copying the language, structure, idea, and/or thoughts of another
- Falsifying statements on any assigned schoolwork, tests, or other school documents

***Communications Devices; Laser Pointers***

Section 22.1-279.6.B. of the *Code* authorizes school boards to regulate the use or possession of beepers or other portable communications devices and laser pointers and establish disciplinary procedures for students violating such regulations. Policies prohibiting or limiting the use of communications devices typically address beepers, cellular telephones, personal digital assistants (PDAs), and similar devices.

Corrective disciplinary action may include the confiscation of such items and their return to the parent or guardian only.

***Sample Conduct Standard: Communication Devices; Laser Pointers***

The following violations shall result in disciplinary action at the discretion of the principal:  
Possession of any portable communication devices, including any beeper, cell phone, or other similar device, including any device capable of receiving or transmitting text messages, on school property and during the school day by an elementary or middle school student.

A high school student may possess such a portable communication device on school property during the school day; however, the device must be out of sight, turned off, and used only with authorization from the principal.

In addition to other disciplinary action associated with the possession or use of a portable communication device in violation of this provision, any such portable communication device shall be subject to confiscation by school officials and returned only to the student's parent or guardian.

***Disruptive Behavior***

"Disruptive behavior" is defined in § 22.1-276.2. of the *Code* as conduct that interrupts or obstructs the learning environment. Local school board policy should cite the initial authority of teachers to remove a student from a class for disruptive behavior.

The related offense of disorderly conduct is defined in § 18.2-415. as involving the intent to cause public inconvenience, annoyance or alarm, or recklessly creating a risk. Conduct is deemed to be disorderly when it disrupts the operation of any school or any activity conducted or sponsored by any school, if the disruption (i) prevents or interferes with the orderly conduct of the operation or activity or (ii) has a direct tendency to cause acts of violence by the person or persons at whom, individually, the disruption is directed.

***Sample Conduct Standard: Disruptive Behavior***

Students are entitled to a learning environment free of unnecessary disruption. Any physical or verbal disturbance within the school setting or during related activities, which interrupts or interferes with teaching and orderly conduct of school activities, is prohibited.

***Dress Standards***

Establishing standards for dress has the potential to be controversial. A key criteria used by many school boards in determining what is and is not acceptable dress is whether it interferes with or disrupts the educational environment. Health and safety are also primary considerations. Some policies approach dress standards as a component of personal symbolic expression that also addresses hairstyles and buttons and badges.

***Sample Conduct Standard: Dress Standard***

All students are expected to dress appropriately for a K-12 educational environment. Any clothing that interferes with or disrupts the educational environment is unacceptable. Clothing with language or images that are vulgar, discriminatory, or obscene, or clothing that promotes illegal or violent conduct, such as the unlawful use of weapons, drugs, alcohol, tobacco, or drug paraphernalia, or clothing that contains threats such as gang symbols is prohibited.

Clothing should fit, be neat and clean, and conform to standards of safety, good taste, and decency. Clothing that exposes cleavage, private parts, the midriff, or undergarments, or that is otherwise sexually provocative, is prohibited. Examples of prohibited clothing include, but are not limited to: sagging or low-cut pants, low-cut necklines that show cleavage, tube tops, halter tops, backless blouses or blouses with only ties in the back, clothing constructed of see-through materials, and head coverings unless required for religious or medical purposes.

Additionally, disciplinary action will be taken against any student taking part in gang-related activities that are disruptive to the school environment, which include the display of any apparel, jewelry, accessory, tattoo, or manner of grooming that, by virtue of its color, arrangement, trademark, or any other attribute, denotes membership in a gang that advocates illegal or disruptive behavior.

Parents of students requiring accommodation for religious beliefs, disabilities, or other good causes should contact the principal. Students not complying with this code will be asked to cover the noncomplying clothing, change clothes, or go home. Repeated infractions will result in disciplinary action.

***Extortion***

Extortion is defined in § 18.2-59. of the *Code* as unlawfully obtaining or attempting to obtain something of value from another by compelling the other person to deliver it by the threat of eventual physical injury or other harm to that person or the person's property, or a third person. "Blackmail" is the common name for extortion where the threat is not physical but relates to exposing some secret or true or alleged fact, which would do harm to someone's circumstances or damage his or her reputation.

***Sample Conduct Standard: Extortion***

No student may obtain or attempt to obtain anything of value from another by using a threat of any kind.

***Fighting***

Fighting is not specifically defined in the *Code of Virginia*. The key element differentiating fighting from assault is the mutual nature of contact.

Definitions developed for use in the Virginia Department of Education report on discipline, crime, and violence are as follows:

- Fighting with serious injury - Mutual participation in an incident involving physical violence, where there is serious injury. Requires medical attention.
- Fighting with no/minor injury - Mutual participation in an incident involving physical violence, where there is no or minor injury.

***Sample Conduct Standard: Fighting***

Exchanging mutual physical contact between two or more students by pushing, shoving, or hitting with or without injury is prohibited.

***Gambling***

Section 18.2-325. of the *Code of Virginia* defines illegal gambling as the “making, placing or receipt, of any bet or wager of money or other thing of value, made in exchange for a chance to win a prize, stake or other consideration or thing of value.” A gambling device includes any device, machine, paraphernalia, equipment, or other thing, including books, records, and other papers, which are actually used in illegal gambling operations or activity.

***Sample Conduct Standard: Gambling***

A student shall not bet money or other things of value, or knowingly play or participate in any game involving a bet on school property or during any school-sponsored activity.

***Gang-Related Activity***

"Criminal street gang" is defined in § 18.2-46.1. as meaning “any ongoing organization, association, or group of three or more persons, whether formal or informal, (i) which has as one of its primary objectives or activities the commission of one or more criminal activities, (ii) which has an identifiable name or identifying sign or symbol, and (iii) whose members individually or collectively have engaged in the commission of, attempt to commit, conspiracy to commit, or solicitation of two or more predicate criminal acts, at least one of which is an act of violence, provided such acts were not part of a common act or transaction.”

Section 16.1-260.G. of the *Code* requires an intake officer to report to the division superintendent any student against whom a petition is filed for certain offenses. The 2004 General Assembly added to the list of reportable offenses the following:

- Prohibited criminal street gang activity pursuant to § 18.2-46.2.
- Recruitment of other juveniles for a criminal street gang activity pursuant to § 18.2-46.3.



**Sample Conduct Standard: Gang-Related Activity**

Gang-related activity will not be tolerated. Symbols of gang membership are expressly prohibited (i.e., clothing that symbolizes association, rituals associated with, or activities by an identified group of students).

**Hazing**

Local school board codes of student conduct, in accordance with § 22.1-279.6.B. of the Code, are required to prohibit hazing and to cite “the provisions of § 18.2-56., which defines and prohibits hazing and imposes a Class 1 misdemeanor penalty for violations; i.e., confinement in jail for not more than 12 months and a fine of not more than \$2,500, either or both.”

**Sample Conduct Standard: Hazing**

No student shall engage in hazing. Hazing means to recklessly and intentionally endanger the health or safety of a student or students or to inflict bodily harm on a student or students in connection with or for the purpose of initiation, admission into or affiliation with, or as a condition for, continued membership in a club, organization, association, fraternity, sorority, or student body, regardless of whether the student or students so endangered or injured participated voluntarily in the activity.

Hazing is a Class 1 misdemeanor which may be punished by confinement in jail for up to 12 months and a fine of up to \$2500, or both, in addition to any disciplinary consequences which may be imposed. In addition, any person receiving bodily injury by hazing has a right to sue, civilly, the person or persons guilty thereof, whether adults or minors.

The principal of any school at which hazing which causes bodily injury occurs shall report the hazing to the local Commonwealth Attorney.

**Internet Use**

Student conduct policy related to computer use should be developed in accordance with information provided in the Virginia Department of Education’s *Acceptable Use Policies: A Handbook*, available on the Department’s Web site at [www.pen.k12.va.us](http://www.pen.k12.va.us).

**Sample Conduct Standard: Internet Use**

Internet use by students shall be in accordance with acceptable computer use policies and regulations. Violations of policy will result in a suspension of access privileges.

**Profane or Obscene Language or Conduct**

School board student conduct policy, in accordance with § 22.1-279.6.B. of the Code, is required to prohibit profane or obscene language or conduct. These terms are not specifically defined in the *Code of Virginia*. Conduct typically prohibited under this provision includes swearing and obscene/offensive gestures, materials, and communications.

**Sample Conduct Standard: Profane or Obscene Language or Conduct**

Students shall not use vulgar, profane, or obscene language, or gestures, or engage in conduct that is vulgar, profane, or obscene, or disrupts the teaching and learning environment.

**Property Violations**

Property violations include, but are not limited to, arson, destruction of property, vandalism, and theft.

Arson - § 18.2-79. of the *Code of Virginia*, prohibits the burning or destroying of any school. The destruction may be in whole or in part--only a *slight* burning is necessary to violate this section of the *Code*.

Destruction of property - § 22.1-280.4. of the *Code* authorizes school boards to seek reimbursement from a pupil or the pupil's parent for any "actual loss, breakage, or destruction of or failure to return property, owned by or under the control of the school board, caused or committed by such pupil in pursuit of his studies."

Theft - Larceny is the wrongful taking of the property of another without the owner's consent and with the intention to permanently deprive the owner of possession of the property.

Vandalism - § 18.2-138. of the *Code* prohibits the willful and malicious damaging of public buildings, including schools.

**Sample Conduct Standard: Property Offenses**

The following violations shall result in disciplinary action at the discretion of the principal and may require a report to local law enforcement authorities:

- Willful causing or attempting to cause damage to school property
- Theft of, taking, or trying to take another person's property or money by force, fear, or other means
- Vandalism, arson, or any threat or false threat to bomb, burn, damage, or destroy in any manner a school building or school property

A student (or the student's parent) shall be required to reimburse the school board for any actual loss of, breakage or, destruction of, or failure to return property owned by or under the control of the school board caused or committed by such student.

**Theft**

See Property Violations

**Threats; Intimidation**

Threats to kill or to do bodily harm are specifically prohibited by § 18.2-60. of the *Code of Virginia*. The prohibition includes threats to any person or persons "(i) on the grounds or premises of any elementary, middle or secondary school property, (ii) at any elementary, middle or secondary school-sponsored event or (iii) on a school bus," Section 18.2-60.B. of

the *Code* prohibits an oral threat to kill or to do bodily injury to any employee of any elementary, middle or secondary school, while on a school bus, on school property, or at a school-sponsored activity.

***Sample Conduct Standard: Threats; Intimidation***

Students shall not make any verbal or physical threat of bodily injury or use of force directed toward another person for the purpose of extortion or for any other reason.

***Trespassing***

Trespassing upon church or school property, including school buses, is specifically prohibited by § 18.2-128. of the *Code of Virginia*. The definition developed for the Virginia Department of Education's discipline, crime, and violence report is as follows:

To enter or remain on a public school campus or school board facility without authorization or invitation and with no lawful purpose for entry, including students under suspension or expulsion, and unauthorized persons who enter or remain on a campus or school board facility after being directed to leave by the chief administrator, or designee of the facility, campus, or function.

***Sample Conduct Standard: Trespassing***

A student shall not trespass on school property or use school facilities without proper authority or permission, or during a period of suspension or expulsion.

All visitors to a school or its grounds shall report to the main office immediately. Persons who fail to do so may be considered trespassers and subject to legal action, and student visitors who fail to do so also may be subject to disciplinary action as well as legal action. Any person whose presence or action interferes with or disrupts the operation of the school, its students, or school activities shall be prohibited from entering school or remaining on school property or remaining at a school-sponsored activity, wherever located.

***Vandalism***

See Property Violations.

***Weapons or Other Dangerous Articles***

Student conduct policy on weapons should address the possession, use, sale or purchase of restricted items on school property, on school vehicles, or during school sponsored activities on or off school property. This includes, but may not be limited to, any firearm, weapon, or dangerous weapon. A school board additionally may prohibit the possession of unloaded weapons by students on their persons or in their lockers, backpacks, or vehicles.

Weapons for which mandatory expulsion is required include those enumerated in *Virginia Code* § 18.2-308.1., in the federal Gun-Free Schools Act, and in *Virginia Code* § 22.1-

277.01.D. In accordance with § 22.1-277.01 of the *Code*, the expulsion shall be for no less than 365 days.

An exception to this policy may be made for students participating in an authorized extracurricular activity or team involving the use of firearms.

Carrying, bringing, using, or possessing dangerous instruments in any school building, on school grounds, in any school vehicle, or at any school-sponsored activity on or off school property is grounds for disciplinary action. Examples of dangerous instruments include knives with blades less than three inches, letter openers, screwdrivers, hammers, hatchets, and other devices that could be used to inflict harm upon another person. Not subject to mandatory expulsion is possession of a knife that is customarily used for food preparation or service and is possessed by the student for the sole purpose of personal food preparation and service.

***Sample Conduct Standard: Weapons***

Students shall not have in their possession any type of unauthorized firearm or other article which may be used as a weapon.

***Other Conduct***

A school board may consider including an “other conduct” category that addresses conduct not specifically listed elsewhere. The “other conduct” should be confined to that which disrupts the educational environment or is a violation of federal, state, or local law.

***Sample Conduct Standard: Other Conduct***

In addition to those specific standards, students shall not engage in any conduct which materially and substantially disrupts the ongoing educational process or which is otherwise in violation of federal, state, or local law.

***Self Defense***

A code of student conduct may, but is not required to, address consideration of self defense as a factor in determining appropriate disciplinary action. Procedures for such consideration should include an opportunity for the student(s) to present the student's version of what occurred, as well as a review of facts, involving school personnel and others as appropriate. The fact-seeking process may include students and other staff who may have witnessed the incident or have observed previous interactions between the students involved. In cases where self defense is claimed, there may be a “history” between the students that often takes the investigation beyond looking at the single incident to examining patterns of interaction, past threats, and bullying. Persons from whom information is obtained could include a bus driver, other students, and parents.

School boards developing disciplinary policies including self defense should provide criteria that define when an incident would be considered an act of self defense. Based on the criteria used in the judicial system for a claim of self defense to apply, the following

conditions should be met. The person claiming self defense must:

- Be without fault in provoking or bringing on the fight or incident
- Have reasonably feared, under the circumstances as they appeared to him, that he was in danger of harm
- Have used no more force than was reasonably necessary to protect himself from the threatened harm.

A school board's policy addressing self defense should retain a prohibition for bringing weapons of any kind to school for the purpose of self defense and explicitly state that self defense does not constitute a valid defense against possession or use of a weapon on school property or at any school-sponsored activity.

***Sample Statement on Self Defense***

Students are subject to disciplinary action for misconduct. Cases for which self defense is claimed must meet the following criteria: (1) the claimant must not have provoked or behaved in a manner to cause the incident; (2) the claimant must have had reasonable fear of danger of harm; and (3) the claimant used no more force than needed for protection from the threatened harm. Such incidents should be reported immediately to school officials. When claims of self defense have been established, the administrator shall: (1) allow the student to present his version of what occurred and (2) review circumstances and relevant information from others pertaining to the incident, including relationships and previous patterns of interaction among the students involved. Findings from the review of circumstances and other relevant information should be considered in determining appropriate corrective disciplinary action. Claims of self defense do not constitute a valid defense against possession or use of a weapon on school property or at any school-sponsored activity. Weapons are prohibited on school property and at school-sponsored events.

## ***Related Policy Issues***

### **Parental Responsibilities and Involvement**

A local school board policy must provide for notification of parental responsibilities in accordance with § 22.1-279.3. of the *Code of Virginia* that sets forth the duty of each parent of a student enrolled in a public school to assist the school in enforcing the standards of student conduct and compulsory school attendance.

Within one calendar month of the opening of school, school boards are required to send the parents of each enrolled student (i) a notice of parental responsibilities; (ii) a copy of the school board's standards of student conduct; and (iii) a copy of the compulsory school attendance law. These materials must include a notice to the parents that, by signing the statement of receipt, parents shall not be deemed to waive, but to expressly reserve, their rights protected by the constitutions or laws of the United States or the Commonwealth. The notice also informs a parent of the right to express disagreement with a school's or school division's policies or decisions. A school board's policy should address documentation of receipt of materials, the conditions for requiring parent involvement, and criteria/steps for proceeding against parents in juvenile and domestic relations court for willful and unreasonable refusal to participate in efforts to improve the student's behavior or school attendance.

## **Reporting of Certain Offenses**

Local school board policy must provide for notification of local law enforcement authorities in accordance with § 22.1-279.3:1.D. of the *Code of Virginia* that requires principals to immediately report to the local law-enforcement agency any act enumerated in clauses (ii) through (vii) of §22.1-279.3:1.A. that may constitute a criminal offense. A principal may report to the local law-enforcement agency any incident described in clause (i) of subsection A. When there is injury, or the battery is against school personnel, reporting is mandatory.

Section 22.1-279.3:1.A. of the code lists offenses as follows:

- i. The assault or assault and battery, without bodily injury, of any person on a school bus, on school property, or at a school-sponsored activity;
- ii. The assault and battery which results in bodily injury, sexual assault, death, shooting, stabbing, cutting, or wounding of any person on a school bus, on school property, or at a school-sponsored activity;
- iii. Any conduct involving alcohol, marijuana, a controlled substance, imitation controlled substance, or an anabolic steroid on a school bus, on school property, or at a school-sponsored activity, including the theft or attempted theft of student prescription medications;
- iv. Any threats against school personnel while on a school bus, on school property or at a school-sponsored activity;
- v. The illegal carrying of a firearm, as defined in § 22.1-277.07, onto school property;
- vi. Any illegal conduct involving firebombs, explosive materials or devices, or hoax explosive devices, as defined in § 18.2-85, or explosive or incendiary devices, as defined in § 18.2-433.1, or chemical bombs, as described in § 18.2-87.1, on a school bus, on school property, or at a school-sponsored activity;
- vii. Any threats or false threats to bomb, as described in § 18.2-83, made against school personnel or involving school property or school buses; or
- viii. The arrest of any student for an incident occurring on a school bus, on school property, or at a school-sponsored activity, including the charge therefor.

The principal or designee must also report these incidents to the superintendent of the school division, who then reports them to the Department of Education (§ 22.1-279.3:1(C). *Code of Virginia*). The principal or designee must also notify the parent of any student involved in the incidents listed above, as well as incidents committed by students enrolled at the school if the offense would be a felony if committed by an adult, regardless of where the offense is committed, or would be a violation of the Drug Control Act if it occurs on a school bus, school property, or at a school sponsored activity (§ 22.1-279.3:1(B) and (C).). Whenever a student commits a reportable incident named in the *Code*, the student shall be required to participate in prevention and intervention activities as determined appropriate by the superintendent or designee (§ 22.1-279.3:1(C).). A school board may require reporting of other offenses. This determination is best made in consultation with local school and law enforcement officials.

## **Clarifying the Parameters of Legal and Administrative Authorities**

An effective school-law enforcement partnership is characterized by clarity about the nature of misconduct that occurs, about respective law enforcement and administrator roles, and about available sanctions. Positive outcomes for students, for schools, and for school-law enforcement partnerships are far more likely to be achieved when law enforcement officers and school administrators work together to apply available sanctions.

The first challenge is to establish clarity about what is a crime and what is a disciplinary matter -- what requires law enforcement response and what requires an administrative response? What behaviors distinguish between criminal and non-criminal actions? For example,

- Under what circumstances will "bullying" be labeled "assault" or "extortion" or "hazing" and result in criminal charges?
- Under what circumstances will fighting result in charges of assault and battery?
- When does a dispute over an allegedly borrowed jacket become a theft and result in a larceny charge?

Determination of criminal versus non-criminal behavior is a serious issue that requires examination and clear understanding between the school division and the law enforcement agency. According to the Northwest Regional Educational Laboratory's Clearinghouse on school safety, recent experience with school-law enforcement partnerships has taught the following:

- Law enforcement officers are not school disciplinarians.
- The officer's presence does not reduce the responsibility of teachers and of administrators to enforce school rules and the school district's student code of conduct.
- Classroom management rests with the teacher.
- Disciplinary responses remain the responsibility of school administrators.
- The focus of law enforcement involvement in conduct matters is properly centered on incidents that involve a violation of law.

Effective school-law enforcement partnerships handle all incidents--whether violations of codes of conduct or violations of law--in a manner designed to ensure an appropriate, coordinated response and improve the likelihood of a desirable outcome for the school, the student, and public safety.

When school-law enforcement partnerships are formed, commitments of the school division and of the law enforcement agency are best formalized in a written interagency agreement called a Memorandum of Understanding (MOU) that outlines the purpose of the partnership and the fundamental responsibilities of each agency. The MOU establishes the framework in which a school resource officer (SRO) program operates. A MOU specifies, at minimum, the following:

- The purpose of establishing the school/law enforcement partnership
- The roles and responsibilities of the school and the law enforcement agency
- The general chain of command and channels of communication
- The schedule for updating and renewing the agreement

A more comprehensive MOU may incorporate key division-level policies and procedures including standard operating procedures for information sharing, investigation of crimes and interrogation, search and seizure and arrest of students, and procedures for handling critical incidents such as bomb threats, riots, and shootings.

Experience has shown that the process of developing the MOU and the operational procedures has great value in clarifying expectations and in anticipating and avoiding operational glitches during implementation. Both the MOU and operational procedures are *evolving documents*, and should be reviewed annually.

**Key Definitions: School Resource Officer and School Security Officer**

"School resource officer" is defined in § 9.1-101. of the *Code of Virginia* as "a certified law-enforcement officer hired by the local law-enforcement agency to provide law-enforcement and security services to Virginia public elementary and secondary schools."

The roles of the School Resource Officer (SRO) in Virginia are identified as:

1. Law enforcement officer
2. Law-related educator
3. Community liaison and
4. Role model

"School security officer" is defined in § 9.1-101. of the *Code of Virginia* as "an individual who is employed by the local school board for the singular purpose of maintaining order and discipline, preventing crime, investigating violations of school board policies, and detaining students violating the law or school board policies on school property or at school-sponsored events and who is responsible solely for ensuring the safety, security, and welfare of all students, faculty, staff, and visitors in the assigned school."

Authoritative information about School Resource Officer (SRO) programs and about the training and certification of both school resource officers and school security officers is available from the Virginia Department of Criminal Justice Services, Virginia Center for School Safety.



## APPENDIX A: CODE OF VIRGINIA § 22.1-279.6

§ 22.1-279.6. Board of Education guidelines and model policies for codes of student conduct; school board regulations.

A. The Board of Education shall establish guidelines and develop model policies for codes of student conduct to aid local school boards in the implementation of such policies. The guidelines and model policies shall include, but not be limited to, (i) criteria for the removal of a student from a class, the use of suspension, expulsion, and exclusion as disciplinary measures, the grounds for suspension and expulsion and exclusion, and the procedures to be followed in such cases, including proceedings for such suspension, expulsion, and exclusion decisions and all applicable appeals processes; (ii) standards, consistent with state, federal and case laws, for school board policies on alcohol and drugs, hazing, vandalism, trespassing, threats, search and seizure, disciplining of students with disabilities, intentional injury of others, self-defense, and dissemination of such policies to students, their parents, and school personnel; and (iii) standards for in-service training of school personnel in and examples of the appropriate management of student conduct and student offenses in violation of school board policies.

In accordance with the most recent enunciation of constitutional principles by the Supreme Court of the United States of America, the Board's standards for school board policies on alcohol and drugs and search and seizure shall include guidance for procedures relating to voluntary and mandatory drug testing in schools, including, but not limited to, which groups may be tested, use of test results, confidentiality of test information, privacy considerations, consent to the testing, need to know, and release of the test results to the appropriate school authority.

In the case of suspension and expulsion, the procedures set forth in this article shall be the minimum procedures that the school board may prescribe.

B. School boards shall adopt and revise, as required in § 22.1-253.13:7. and in accordance with the requirements of this section, regulations on codes of student conduct that are consistent with, but may be more stringent than, the guidelines of the Board. School boards shall include, in the regulations on codes of student conduct, procedures for suspension, expulsion, and exclusion decisions and shall biennially review the model student conduct code to incorporate discipline options and alternatives to preserve a safe, nondisruptive environment for effective teaching and learning.

Each school board shall include, in its code of student conduct, prohibitions against hazing, profane or obscene language or conduct. School boards shall also cite, in their codes of student conduct, the provisions of § 18.2-56. which defines and prohibits hazing and imposes a Class 1 misdemeanor penalty for violations, i.e., confinement in jail for not more than 12 months and a fine of not more than \$2,500, either or both.

A school board may regulate the use or possession of beepers or other portable communications devices and laser pointers by students on school property or attending school functions or activities and establish disciplinary procedures pursuant to this article to which students violating such regulations will be subject.

Nothing herein shall be construed to require any school board to adopt policies requiring or encouraging any drug testing in schools. However, a school board may, in its discretion, require or encourage drug testing in accordance with the Board of Education's guidelines and

model student conduct policies required by subsection A and the Board's guidelines for student searches required by § 22.1-279.7.

C. The Board of Education shall establish standards to ensure compliance with the federal Improving America's Schools Act of 1994 (Part F-Gun-Free Schools Act of 1994), as amended, in accordance with § 22.1-277.07.

This subsection shall not be construed to diminish the authority of the Board of Education or to diminish the Governor's authority to coordinate and provide policy direction on official communications between the Commonwealth and the United States government.

## APPENDIX B: DISCIPLINE OF STUDENTS WITH DISABILITIES

Source: Virginia Department of Education (2002). *Regulations Governing Special Education Programs for Children with Disabilities*.

A technical assistance resource document, "Discipline of Students with Disabilities" is available at Virginia Department of Education's Web site:  
<http://www.pen.k12.va.us/VDOE/sped>.

### **8 VAC 20-80-68. Discipline procedures.** (p. 56 of Regulations)

A. General. A student with a disability shall be entitled to the same due process rights that all students are entitled to under the Code of Virginia and the local educational agency's disciplinary policies and procedures. *COV §22.1-277*

B. Short-term removals. *34 CFR §§ 300.121; 300.519*

1. A student with a disability may be removed from the student's current educational setting up to 10 cumulative school days in a school year for any violation of school rules to the extent removal would be applied to a student without a disability.

2. A student with a disability may be removed from the student's current educational setting for a period of time that cumulatively exceeds 10 school days in a school year for separate incidents of misconduct as long as the removals do not constitute a pattern. If the removals do constitute a pattern, the requirements of subsection C of this section apply.

a. Isolated, short-term suspensions for unrelated instances of misconduct may not be considered a pattern.

b. These removals do not constitute a change in placement.

C. Long-term removals. *34 CFR § 300.121*

1. For purposes of removals of a student with a disability from the student's current educational placement, a change in placement occurs if: *34 CFR § 300.519*

a. The removal is for more than 10 consecutive school days; or

b. A series of removals constitutes a pattern because the removals cumulate to more than 10 school days in a school year and because of factors such as the length of each removal, the total amount of time the student is removed, and the proximity of the removals to one another.

### **2. Authority of school personnel. 34 CFR § 300.520 and 522**

a. A student with a disability may be removed consistent with subdivision 1 of this subsection for any violation of school rules to the extent removal would be applied to students without disabilities.

b. School personnel may remove a student with a disability to an appropriate interim alternative educational setting for the same amount of time that a student without a disability would be subject to discipline, but for not more than 45 calendar days, if:

(1) The student carries a weapon to or possesses a weapon at school or a school function under the jurisdiction of a local educational agency or the Virginia Department of Education; or

(2) The student knowingly possesses or uses illegal drugs or sells or solicits the sale of a controlled substance while at school or a school function under the jurisdiction of a local educational agency or the Virginia Department of Education. For purposes of this part, the following definitions apply:

(a) Controlled substance means a drug or other substance identified under schedules I, II, III, IV, or V in § 202(c) of the Controlled Substances Act at 21 USC § 812 (c).

(b) Illegal drug means a controlled substance, but does not include a substance that is legally possessed or used under the supervision of a licensed health-care professional or that is legally possessed or used under any other authority under the Controlled Substances Act or under any other provision of federal law.

(c) Weapon has the meaning given the term "dangerous weapon" in 18 USC § 930 (g), paragraph 2, as well as any weapon defined as a dangerous weapon in the Code of Virginia.

c. The interim alternative educational setting must be determined by an IEP team. The interim alternative educational setting must be selected so as to enable the student to:

- (1) Continue to progress in the general curriculum, although in another setting;
- (2) Continue to receive those services and modifications including those described in the student's current IEP that will enable the student to meet the IEP goals; and
- (3) Include services and modifications that address the behavior and are designed to prevent the behavior from recurring.

d. The local educational agency shall ensure that the following procedures are implemented either before or not later than 10 business days after either first removing the student for more than 10 school days in a school year or commencing a removal that constitutes a change in placement under subdivision 1 of this subsection, including placements in interim alternative educational settings:

(1) The IEP team shall convene to develop a behavioral assessment plan if the local educational agency did not conduct a functional behavioral assessment and implement a behavioral plan for the student before the behavior resulted in the removal described in subdivision 1 of this subsection.

(2) The functional behavioral assessment may be a review of existing data that can be completed at the IEP meeting. Parental consent is not necessary to review existing data.

(3) The IEP team shall reconvene as soon as practicable after developing the assessment plan and completing the assessments required by the plan. The IEP team shall develop and implement appropriate behavioral interventions to address the behavior.

(4) If the student had a behavioral intervention plan before engaging in the behavior, the IEP team shall convene to review the plan and its implementation and modify the plan and its implementation, as necessary, to address the behavior.

e. If the student who has a behavioral intervention plan and who has been removed from the student's current educational placement for more than 10 school days in a school year is subjected to a further removal that does not constitute a change in placement under subdivision 1 of this subsection, the IEP team shall review the behavioral intervention plan and its implementation to determine if modifications are necessary. If one or more of the team members believe that modifications are needed in the student's behavioral intervention plan, the IEP team shall meet and modify the plan and its implementation as necessary.

### **3. Services during periods of disciplinary removal. 34 CFR §300.121 (d)**

a. The local educational agency is not required to provide services during the first 10 school days in a school year that a student with a disability is removed from the student's current

educational setting if services are not provided to a student without a disability who has been similarly removed.

b. For a subsequent removal that is less than 10 school days in a school year, but exceeds 10 cumulative school days of removal, and which does not constitute a change in placement under subdivision 1 of this subsection, the local educational agency shall provide services to the extent determined necessary to enable the student to appropriately progress in the general curriculum and appropriately advance toward achieving the goals of the student's IEP.

c. The procedures for determining services under subdivision 3 b of this subsection for periods of removals are as follows:

- (1) For removals for more than 10 school days in a school year which do not constitute a change in placement, school personnel, in consultation with the student's special education teacher, make the service determinations.
- (2) For removals that constitute a change in placement, the IEP team determines what services are needed.

## **APPENDIX C: SAMPLE FORMS AND FORMATS**

Sample: Parent Acknowledgment of Parental Responsibility

**Acknowledgment of Parental Responsibility**

This form is for parents/legal guardians of all students enrolled in XXXX Public Schools to ensure that they have received and reviewed the following important documents.

Student Name \_\_\_\_\_ DOB \_\_\_\_\_  
School \_\_\_\_\_  
Homeroom Teacher \_\_\_\_\_ Grade \_\_\_\_\_

**I have received and reviewed each of the following:**

1. Standards of Student Conduct.
2. A copy of § 22.1-279.3. of the *Code of Virginia* that sets forth the duty of each parent of a student enrolled in a public school to assist the school in enforcing the standards of student conduct and compulsory school attendance.
3. A copy of the compulsory attendance law.

My signature acknowledges receipt of above-listed documents. By signing this statement of receipt, I do not waive, but expressly reserve, my rights protected by the constitution or laws of the United States or Virginia. I retain the right to express disagreement with a school's or school division's policies or decisions.

Print Parent/Legal Guardian/Eligible Student Name \_\_\_\_\_

Signature of Parent/Legal Guardian \_\_\_\_\_

Date \_\_\_\_\_

Signature of Student Age 18 or above \_\_\_\_\_

Date \_\_\_\_\_

**Please return this form to your child's homeroom teacher  
no later than [INSERT DATE].**

**Sample: Annual Policy Review Checklist**

✓	<b>Tasks</b>
	Review ongoing log of issues/concerns maintained since distribution of Standards
	November - Meet with elementary, middle, high school principals' committee
	December – Meet with legal counsel and superintendent
	January – March – Review relevant General Assembly bills and resolutions
	January – Draft preliminary changes/updates to Standards for review by superintendent and senior administration
	March – determine estimated number of copies of Standards needed in English and in other languages; obtain preliminary estimates of costs for translation and for printing
	April – Review final General Assembly action
	April – Attend school board work session
	May – Return to school board for final discussion and approval
	May – Coordinate production of document with graphics specialist
	Late May/early June – complete final review before printing; approve and send to printer
	Late May/early June – document sent for translation into required languages; as translations are completed, documents are approved and sent to printer
	New Standards in English and other languages are distributed to school sites via internal mail services
	August – In-service training is provided to school administrators and other school staff.



**Sample: Quick Guide to Rules of Conduct and Disciplinary Consequences**

This Quick Guide contains examples of actions for which students may be disciplined, as well as the probable consequences. Typical situations are identified; other measures may be used.

<p><b>Suspension of 10 Days and Mandatory Recommendation for Expulsion</b></p> <ul style="list-style-type: none"> <li>Physical assault on staff with bodily injury</li> <li>Sexual assault or battery</li> <li>Mob assault</li> <li>Distribution or manufacture of alcohol or inhalants</li> <li>Possession of controlled or imitation controlled substance</li> <li>Illegal use or possession of prescription drugs (second offense)</li> <li>Distribution or manufacture of a controlled or imitation controlled substance, illegal drugs, or drug paraphernalia</li> <li>Unauthorized use or possession of any weapon or any object used as a weapon</li> <li>Under influence of marijuana or other controlled substance within 12 months of prior offense</li> </ul>	<p><b>Suspension of Up to 10 Days</b></p> <ul style="list-style-type: none"> <li>Use, possession, or under influence of alcohol, inhalants, or nonalcoholic beer</li> <li>Under influence of marijuana or other controlled substance (first offense)</li> <li>Possession of drug paraphernalia (first offense)</li> <li>Distribution of nonprescription drugs.</li> <li>Illegal use or possession of prescription drugs (not classified as controlled substances) (first offense)</li> <li>Assault or assault and battery</li> </ul>	<p><b>Discretion of the Principal (Consequences range from an intervention without suspension to a recommendation for expulsion.)</b></p> <ul style="list-style-type: none"> <li>Threat to assault a staff member; threat or assault of another student</li> <li>Disruption, disobedience, insubordination, defiance of school officials</li> <li>Endangering well-being of others: fighting, bullying</li> <li>Possession or display of obscenity; indecent exposure</li> <li>Cursing, verbal abuse including gestures</li> <li>Fireworks – use or possession</li> <li>Forgery, cheating, plagiarism, dishonesty</li> <li>Gambling</li> <li>Improper touching</li> <li>Unauthorized or illegal use or disruption of information technology</li> <li>Unauthorized laser devices</li> <li>Gang-related activities</li> <li>Portable communications devices</li> <li>Attendance violations</li> <li>Use or possession of nonprescription drugs</li> <li>Vandalism of school property; bomb threats</li> <li>Unauthorized presence</li> <li>Tobacco violations</li> <li>Hazing</li> </ul>
--	--	--

## Sample: Quick Guide to Disciplinary Action

<b>Suspension of 10 Days and Recommendation for Expulsion</b>	<b>Report to Law Enforcement</b>
Physical assault on staff member with bodily injury	Yes
Sexual assault or battery	Yes
Mob assault	Yes
Distribution or manufacture of alcohol or inhalants	Yes
Possession of controlled or imitation controlled substance	Yes
Illegal use or possession of prescription drugs (second offense)	Yes
Distribution or manufacture of a controlled or imitation controlled substance, illegal drugs, or drug paraphernalia	Yes
Unauthorized use or possession of any weapon or any object used as a weapon	Yes

<b>Suspension for Up to 10 Days</b>	<b>Report to Law Enforcement</b>
Threat to assault a staff member	Yes
Threat or assault of another student	Possible
Use, possession, or under influence of alcohol, inhalants, or nonalcoholic beer	Yes
Assault or assault and battery of another student or person other than staff member with bodily injury	Yes
Assault or assault and battery without bodily injury	Possible

<b>Discretion of the Principal</b>	<b>Report to Law Enforcement</b>
Improper touching	Possible
Endangering well-being of others: fighting, bullying	Possible
Fireworks – use or possession	Possible
Unauthorized or illegal use or disruption of information technology	Possible
Gang-related activities	Yes
Vandalism of school property; bomb threats	Yes
Theft	Possible
Unauthorized presence	Possible
Tobacco (second and subsequent violations)	Possible
Hazing	Yes (report to Commonwealth's Attorney)

## APPENDIX D: RELATED RESOURCES

The following list of related policies, regulations, non-regulatory guidance and credible resource publications is intended as supplemental information that may be used by school boards in the development of student conduct policy.

### Virginia Board of Education Guidelines

Title	Statutory Reference	Superintendents Memo
<i>Guidelines Concerning Student Searches in Virginia Public Schools</i> (Approved November 19, 1999)	§ 22.1-279.7	Student Search Guidelines. SUPTS. MEMO NO. 9 (Administrative), March 17, 2000
<i>Guidelines Concerning Student Drug Testing in Virginia Public Schools</i> (Approved June 23, 2004)	§ 22.1-279.7	Drug Testing Guidelines. SUPTS. MEMO NO. 148 (Informational), July 30, 2004
<i>Persistently Dangerous Schools, Identification Process and Criteria under the No Child Left Behind Act of 2001</i> (Approved April 29, 2003)	No Child Left Behind Act of 2001, at Title IX, Section 9532.	Unsafe School Choice Option: Identification of Persistently Dangerous Schools. SUPTS. MEMO NO. 86 (Informational), May 9, 2003

### Related Virginia Regulations and Guidelines

#### Standards of Quality.

Section 22.1-253.13:7., *Code of Virginia*

#### Standards of Accreditation

Section 8 VAC 20-131-210.A., Role of the Principal

Section 8 VAC 20-131-260.C.3., Facilities and Safety

*Regulations Governing Special Education Programs for Children with Disabilities in Virginia* (March 27, 2002). Virginia Department of Education. Available at

<http://www.pen.k12.va.us/VDOE/Instruction/Sped/varegs.pdf>

See Section 8 VAC 20-80-68 - Discipline Procedures (p. 56)

*Guidelines for the Management of the Student's Scholastic Record in the Public Schools of Virginia* (May 2004). Full document available on the Virginia Department of Education Web site at <http://pen.k12.va.us/VDOE/studentsrvcs/MSSRedit.pdf>

## **Related Federal Regulations, and Non-Regulatory Guidance**

*Safe and Drug-Free Schools and Communities Act Grant Programs: Guidance for State and Local Implementation of Programs* (December 2002). U.S. Department of Education. Available online <http://www.ed.gov/programs/dvpformula/legislation.html>

*Guidance Concerning State and Local Responsibilities Under the Gun-Free Schools Act* (January 22, 2004). U.S. Department of Education. Available at <http://www.ed.gov/programs/dvpformula/legislation.html>

*Unsafe School Choice Option Non-Regulatory Guidance* (May, 2004). U.S. Department of Education. Available at <http://www.ed.gov/policy/elsec/guid/unsafeschoolchoice.pdf>

## **Related Resource Materials and Publications**

*Virginia School Search Resource Guide*. (October 2000). Virginia Department of Education. Available online at: <http://www.pen.k12.va.us/VDOE/Instruction/ssg.pdf>

*Virginia Juvenile Law Handbook for School Administrators: 2004 Update*. Virginia Department of Criminal Justice Services. Available online at [www.dcja.org/vcss/](http://www.dcja.org/vcss/)

"Discipline of Students with Disabilities." Available at Virginia Department of Education's Website: <http://www.pen.k12.va.us/VDOE/sped>.

### Attendance

*Improving School Attendance: A Resource Guide for Virginia Schools* (2004). Virginia Department of Education. Available online at <http://www.pen.k12.va.us/>

### Computer Use

*Acceptable Use Policies: A Handbook*. Virginia Department of Education. Available at <http://www.pen.k12.va.us/go/VDOE/Technology/AUP/home.shtml#intro>

### Crisis Management

*Model School Crisis Management Plan* (2002). Virginia Department of Education. Download at <http://www.pen.k12.va.us/VDOE/Instruction/model.html>

*Resource Guide for Crisis Management in Schools*. (2002). Virginia Department of Education. Download at <http://www.safeanddrugfreeva.org/CrisisGuide2002Final.pdf>

*Practical Information on Crisis Planning: A Guide for Schools and Communities* (2003). Download at <http://www.ed.gov/admins/lead/safety/emergencyplan/crisisplanning.pdf>

*Disaster Preparedness and Response for Schools*. National Clearinghouse for Educational Facilities. See resources at <http://www.edfacilities.org/rl/disaster.cfm>

*The Virginia Educator's Guide for Planning and Conducting School Emergency Drills*. Virginia Department of Criminal Justice Services. Available online at <http://www.dcjs.virginia.gov/vcss/>

Bomb Threats

*Bomb Threat Assessment Guide* (Oct. 2003), an interactive CD-ROM, developed by the U.S. Department of Education and the Bureau of Alcohol, Tobacco, and Firearms. Access at <http://www.threatplan.org/>

Internet/Technology Use

*Acceptable Use Policies: A Handbook* (2003). Virginia Department of Education. Available from: <http://www.pen.k12.va.us/go/VDOE/Technology/AUP/home.shtml#intro>

School-Law Enforcement Partnerships

*Fostering School-Law Enforcement Partnerships* (2002). National Resource Center for Safe Schools, School Safety Guide #6. Available from [http://www.safetyzone.org/safe\\_secure.html](http://www.safetyzone.org/safe_secure.html)

"Cops in Schools: COPS Commitment to Schools" *COPS Fact Sheet* (March 10, 2004), U.S. Department of Justice. Available online at <http://www.cops.usdoj.gov>

**Other Sources of Information**

Virginia Center for School Safety (<http://www.dcjs.org/vcss/>) - Information is available on the following topics and issues:

- School safety audits
- School resource officer (SRO) training and programs
- School security officer (SSO) training
- School critical incident response

## **APPENDIX E: PUBLIC LAW 107-110, NO CHILD LEFT BEHIND ACT OF 2001, TITLE IV, PART A, SECTION 4141, GUN-FREE REQUIREMENTS**

### **SEC. 4141. GUN-FREE REQUIREMENTS.**

(a) **SHORT TITLE-** This subpart may be cited as the Gun-Free Schools Act.

(b) **REQUIREMENTS-**

(1) **IN GENERAL-** Each State receiving Federal funds under any title of this Act shall have in effect a State law requiring local educational agencies to expel from school for a period of not less than 1 year a student who is determined to have brought a firearm to a school, or to have possessed a firearm at a school, under the jurisdiction of local educational agencies in that State, except that such State law shall allow the chief administering officer of a local educational agency to modify such expulsion requirement for a student on a case-by-case basis if such modification is in writing.

(2) **CONSTRUCTION-** Nothing in this subpart shall be construed to prevent a State from allowing a local educational agency that has expelled a student from such a student's regular school setting from providing educational services to such student in an alternative setting.

(3) **DEFINITION-** For the purpose of this section, the term firearm has the same meaning given such term in section 921(a) of title 18, United States Code.

(c) **SPECIAL RULE-** The provisions of this section shall be construed in a manner consistent with the Individuals with Disabilities Education Act.

(d) **REPORT TO STATE-** Each local educational agency requesting assistance from the State educational agency that is to be provided from funds made available to the State under any title of this Act shall provide to the State, in the application requesting such assistance -

(1) an assurance that such local educational agency is in compliance with the State law required by subsection (b); and

(2) a description of the circumstances surrounding any expulsions imposed under the State law required by subsection (b), including -

(A) the name of the school concerned;

(B) the number of students expelled from such school; and

(C) the type of firearms concerned.

(e) **REPORTING-** Each State shall report the information described in subsection (d) to the Secretary on an annual basis.

(f) **DEFINITION-** For the purpose of subsection (d), the term school means any setting that is under the control and supervision of the local educational agency for the purpose of student activities approved and authorized by the local educational agency.

(g) **EXCEPTION-** Nothing in this section shall apply to a firearm that is lawfully stored inside a locked vehicle on school property, or if it is for activities approved and authorized by the local educational agency and the local educational agency adopts appropriate safeguards to ensure student safety.

(h) **POLICY REGARDING CRIMINAL JUSTICE SYSTEM REFERRAL-**

(1) **IN GENERAL-** No funds shall be made available under any title of this Act to any local educational agency unless such agency has a policy requiring referral to the criminal justice or juvenile delinquency system of any student who brings a firearm or weapon to a school served by such agency.

(2) **DEFINITION-** For the purpose of this subsection, the term school has the same meaning given to such term by section 921(a) of title 18, United States Code.

### **Definitions of “Other Firearms”**

Firearms other than handguns, rifles or shotguns as defined in Section 921, Title 18 of the United States Code. According to Section 921, the following are within the definitions:

- any weapon (including a starter gun) which will or is designed to or may readily be converted to expel a projectile from the action of any explosive;
- the frame or receiver of any weapon described above;
- any firearm muffler or firearm silencer;
- any destructive device, which includes:

(a) any explosive, incendiary, or poison gas

- (1) Bomb;
- (2) Grenade,
- (3) Rocket having a propellant charge of more than four ounces,
- (4) Missile having an explosive or incendiary charge of more than one-quarter ounce,
- (5) Mine, or
- (6) Similar device.

(b) any weapon which will, or which may be readily converted to expel a projectile by the action of an explosive or other propellant, and which has any barrel with a bore of more than one-half inch in diameter.

(c) any combination or parts either designed or intended for use in converting any device into any destructive device described in the two immediately preceding examples, and from which a destructive device may be readily assembled.

**Note:** This definition does not apply to items such as toy guns, cap guns, bb guns, and pellet guns. According to Section 921, antique firearms are not included in the definition

# Board of Education Agenda Item

Item: Q

Date: September 22, 2004

**Topic:** First Review of Response to a Recommendation from the 2003 Student Advisory Committee Regarding Student Diversity

**Presenter:** Dr. Cynthia A. Cave, Director of Student Services

**Telephone Number:** 225-2818

**E-Mail Address:** [ccave@mail.vak12ed.edu](mailto:ccave@mail.vak12ed.edu)

## Origin:

☐ Topic presented for information only (no board action required)

☐ Board review required by

☐ State or federal law or regulation

☐ Board of Education regulation

☒ Other: The Board of Education's Student Advisory Committee Recommendation

☒ Action requested at this meeting: Accept for first review the establishment of the Leadership in Multicultural Education Award

☐ Action requested at future meeting: \_\_\_\_\_ (date)

## Previous Review/Action:

☐ No previous board review/action

☒ Previous review/action

date April 28, 2004, meeting

action The Board of Education Student Advisory Committee recommended that the board develop an award that recognizes schools that promote cultural diversity.

## Background Information:

Increasingly, Virginia public schools are more diverse, and this trend will continue to grow. The ultimate focus is not about diversity itself, but more about understanding how differences affect the ways students achieve in school. To build an appreciation of differences in a school, it is important to promote understanding of values and beliefs endemic to various cultures.

During the 2003-04 school year, the Student Advisory Committee of the Board of Education recommended that an award program be developed for schools that make an effort to promote understanding of cultural diversity throughout the school. As a result, the proposed Board of Education's Leadership in Multicultural Education Award has been developed.



Multicultural education includes, but is not limited to, strategies and programs that promote a school climate that is culturally responsive to all students. Diversity forums, cultural presentations, staff development training, and collaboration between school and community groups are just a few examples of effective approaches.

The proposed Board of Education's Leadership in Multicultural Education Award would be given to schools and school divisions. Recipients will be presented with a certificate of recognition by the Board of Education for effectively providing educational opportunities that promote an understanding and responsiveness to cultural diversity. Their programs will be highlighted on the Web site of the Virginia Department of Education.

**Summary of Major Elements:**

A description of the award is attached. Criteria for the selection of a school or school division would include:

- Continuous development of strategies that eliminate barriers to student success
- Sustained activities that improve school climate
- Ongoing activities that eliminate bias
- Development of innovative programs that promote cultural competency

**Superintendent's Recommendation:**

The Superintendent of Public Instruction recommends that the Board of Education accept establishment of this award for first review.

**Impact on Resources:**

Minimal

**Timetable for Further Review/Action:**

Final review for adoption of the Multicultural Leadership in Education Award is scheduled for the October Board of Education meeting.

## Leadership in Multicultural Education Award

Increasingly, Virginia public schools are more diverse, and this trend will continue to grow. The ultimate focus is not about diversity itself, but more about the impact differences have on how students achieve in school. To have a successful culturally pluralistic school community, it is important to promote understanding of the values and beliefs endemic to various cultures.

During the 2003-04 school year, the Student Advisory Committee of the Board of Education recommended to the board that an award program be developed for schools that make an effort to educate students about cultural diversity. Understanding cultural diversity is fundamental to the processes, content, and outcomes of schooling. Subsequently, learning how to interact in a culturally diverse society should start in school.

The Virginia State Board of Education has established a Leadership in Multicultural Education Award for schools and school divisions. Throughout the year, recipients will be presented with a certificate of recognition at Board of Education meetings. The programs that received recognition for promoting an understanding and responsiveness to cultural diversity in Virginia schools will be highlighted on the Web site of the Virginia Department of Education.

### Criteria for Selection

- Continuous development of strategies that eliminate barriers to student success
- Sustained activities that improve school climate
- Ongoing activities that eliminate bias
- Development of innovative programs that promote cultural competency

Multicultural education includes, but is not limited to, strategies and programs that promote a school climate that is culturally responsive to all students. Diversity forums, cultural presentations, staff development training, and collaboration between school and community groups are just a few examples of effective approaches.

### How to Nominate

Nominations will be accepted throughout the year. The selection committee, to include representatives from school divisions, the Virginia Department of Education, and a nationally recognized cultural competency trainer/consultant, will meet quarterly to select an award recipient.

Nominations should include:

- Information about the number of students and school(s) affected as well as demographics of the school(s) and the student population
- A description of the program or strategy implemented
- A description of how the program or strategy promotes an understanding of cultural diversity within the school community or promotes a school climate that is culturally responsive to all students
- Contact information for the nominator, including mailing address, telephone number, and e-mail address
- A description of outcomes such as data documenting results, letters of support, publications, or newspaper coverage

# Board of Education Agenda Item

Item: \_\_\_\_\_ R \_\_\_\_\_

Date: September 22, 2004

**Topic:** Annual Report of the State Special Education Advisory Committee

**Presenter:** Charlene Christopher, Chair

**Origin:**

X Topic presented for information only (no board action required)

\_\_\_\_\_ Board review required by

X State or federal law or regulation

\_\_\_\_\_ Board of Education regulation

\_\_\_\_\_ Other: \_\_\_\_\_

\_\_\_\_\_ Action requested at this meeting \_\_\_\_\_ Action requested at future meeting: \_\_\_\_\_ (date)

**Previous Review/Action:**

\_\_\_\_\_ No previous board review/action

\_\_\_\_\_ Previous review/action

date \_\_\_\_\_

action \_\_\_\_\_

**Background Information:**

The State Special Education Advisory Committee (SSEAC) is a federally-mandated panel comprised of individuals with disabilities, teachers, parents, state and local officials, and local administrators. The Individuals with Disabilities Education Act (IDEA) requires that the committee submit an annual report to the state education agency.

**Summary of Major Elements:**

The report includes (1) an overview of the SSEAC mission and structure, (2) a description of priority issues in special education, and (3) a summary of future issues that the SSEAC will consider.

**Superintendent's Recommendation:**

The Superintendent of Public Instruction recommends that the Board of Education accept the report for consideration and disseminate to the public upon request.

**Impact on Resources:**

There is no anticipated impact on resources.

**Timetable for Further Review/Action:**

No further review or action is required unless desired by the Board.

# **Virginia State Special Education Advisory Committee Annual Report**

---

**September 2004**

**Prepared for  
Virginia Board of Education**

**By**

**Mrs. Charlene Christopher, Chair  
State Special Education Advisory Committee (SSEAC)**

## Table of Contents

Part I: Mission and Structure .....	3
A.    Organization.....	4
B.    Meetings.....	4
Part II: Priority Issues for the State Special Education Advisory Committee .....	5
A.    Student Achievement.....	5
B.    Qualified Personnel.....	6
C.    Family Involvement .....	6
D.    Continuum of Placement Options and Least Restrictive Environment .....	6
E.    Virginia Schools for the Deaf and Blind (VSDB) .....	7
F.    Restraint and Seclusion.....	7
G.    Medicaid .....	7
H.    Secondary Transition .....	7
Part III. Future Issues.....	8
A.    Reauthorization of IDEA (Individuals with Disabilities Education Act).....	8
B.    No Child Left Behind.....	8
C.    Olmstead Plan .....	8
Appendix.....	9
List of State Special Education Advisory Committee Members	
List of State Special Education Advisory Committee Presentations	

## Part I: Mission and Structure

The State Special Education Advisory Committee (SSEAC) for the Commonwealth of Virginia is organized and functions in accordance with the mandate in the Rules and Regulations for the Administration of Public Law 105-17, the Individuals with Disabilities Education Act (IDEA) 1997 and the *Regulations Governing Special Education Programs for Children with Disabilities in Virginia*. The committee's functions include the following:

1. Advise the state education agency (SEA) of unmet needs within the State in the education of children with disabilities;
2. Comment publicly on any rules or regulations proposed by the State regarding the education of children with disabilities;
3. Advise the SEA in developing evaluations and reporting on data to the Secretary under section 618 of the Act;
4. Advise the SEA in developing corrective action plans to address findings identified in Federal monitoring reports under Part B of the Act; and
5. Advise the SEA in developing and implementing policies relating to the coordination of services for children with disabilities.
6. Advising on eligible students with disabilities in adult prisons that have been convicted as adults and incarcerated in adult prisons;
7. Review the policies and procedures of state operated programs, the Virginia School for the Deaf and Blind at Staunton and the Virginia School for the Deaf, Blind, and Multi-Disabled at Hampton; and
8. Prepare and present an Annual Report to the Virginia Board of Education and the Superintendent of Public Instruction. This report shall be made available to the public.

## Membership

The committee is composed of representatives of stakeholder groups as prescribed by IDEA 97. These individuals have a common interest in meeting the educational needs of children and youth with disabilities throughout the Commonwealth. The membership includes eight parents of children with disabilities, two individuals with disabilities, a teacher, a representative of institutions of higher education that prepare special education and related services personnel, a local superintendent, a local special education director, a representative of an organization concerned with transition services, a representative of other state agencies involved in the financing or delivery of related services to children with disabilities, and a representative of a correctional agency. Members are appointed by the Board of Education to a four-year term and are eligible for reappointment for an additional four-year term. Individual citizens and organizations are invited to nominate candidates for appointment to the committee. Terms of membership are staggered to assure continuity. Members are reimbursed for expenses incurred while attending meetings; however, the membership serves without compensation. The committee is staffed by designated liaisons from the Department of Education that are knowledgeable in the field of special education. The department also provides technical and clerical assistance to the committee.

## **Organization**

The activities of the committee are governed by its by-laws, which were last revised in April 2001. The SSEAC year runs from July 1<sup>st</sup> to June 30<sup>th</sup>. Three subcommittees conduct the work of the full committee. In addition, the SSEAC has a membership subcommittee to assist with the appointment process when vacancies occur within the membership and a special committee to review the policies and procedures of state operated programs and the Virginia Schools for the Deaf, Blind, and Multi-disabled. Staff members are available to each of the subcommittees to provide technical assistance, clarification of Department of Education (DOE) procedures, and background information.

Committee members are assigned to one of the three subcommittees to take advantage of each member's expertise, interests and concerns. A member of the SSEAC executive committee chairs each subcommittee. Subcommittees may meet independently; make recommendations on issues and topics discussed with recommended action. Such action may take one of several forms: further study, requests for additional information from the Department, or referral to the Board of Education by written communication, oral presentation, or public comment. The SSEAC worked with three subcommittees, which were aligned with Virginia's Special Education Improvement Plan goals. In addition, the Ad-Hoc Subcommittee on Restraint and Seclusion continued its work to develop a product. The subcommittees were:

1. Results for Students,
2. Personnel Development
3. Parent Involvement
4. Ad-Hoc Subcommittee on Restraint and Seclusion

## **Meetings**

The committee meets in regular session four times a year: subcommittees and the executive committee meet as necessary to fulfill their responsibilities. All regular meetings are open to the public, and a public comment period is offered at each meeting.

All meetings in 2003-2004 were held in Richmond. In addition to its four regular meetings, the Membership committee met once to review the nominations of candidates for a vacancy that occurred on the committee. Additionally, a subcommittee met to review the policies and procedures of the state operated programs and the Virginia Schools for the Deaf, Blind, and Multi-disabled. Department staff members were available and provided technical support at each meeting. The SSEAC public comment policy guidelines to ensure that persons speaking before the committee were provided feedback relative to their concerns. These guidelines have further been refined to notify the special education director and the local superintendent of local constituent concerns. Meetings are audiotaped to assist with record keeping. The Committee has decided to alternate meetings for the 2004-2005 school year in different localities to allow parents the opportunity to address the Advisory Committee in their home communities.



## **Part II: Priority Issues for the SSEAC**

During 2003-2004 the SSEAC continued its role working with the DOE and monitoring the Virginia Special Education Improvement Plan and the various priority projects. The SSEAC meeting agenda included many additional topics related to the educational achievement for students with disabilities.

### **A. Student Achievement**

The SSEAC recognizes the importance of including students with disabilities in the Standards of Learning achievement measures, and the need to do so in order to assure accountability. The State Special Education Advisory Committee believes that the steps taken providing substitute numeracy and literacy tests for the Modified Standard Diploma and the “Plain English Math” test are steps in the right directions towards leveling the playing field for students with disabilities. However, the SSEAC would like to have further discussion in this area. The committee is intensely interested in working with the Department of Education as they institute current and planned programs and strategies for addressing these concerns.

The SSEAC received public comment from several parents relative to their concerns about student’s ineligibility to receive a standard diploma because of failure to pass the Standards of Learning end-of-course tests. Public comment was also received about the large print accommodation for the SOL.

### **B. Qualified Personnel**

Licensure and Teacher Shortages: Committee members continue to be concerned about the number of special education teachers leaving the field and the high number of teaching staff in Virginia with conditional licensure. The committee is concerned that under the NCLB and its requirements for “highly qualified” personnel the shortage of special education staff in Virginia serving students with disabilities will worsen.

As legislation is drafted under the reauthorization of the Individuals with Disabilities Education Act (IDEA) the definition of “highly qualified” as it relates to special education teachers needs to be addressed or the shortages may increase. As the number of students with disabilities are involved in the regular education curriculum and the state assessment program increases, it is vital that staff is available to ensure their academic success. Retention of current staff remains a major concern for localities. Efforts to improve working conditions should be a high priority for local school divisions, state operated programs, and the DOE.

The SSEAC supports the State Board’s high, objective, uniform state standard of evaluation (HOUSSE), which should assist localities in their ability to retain qualified staff.

Public comment was received about the use of the SAT in place of Praxis I and Praxis II.

Paraprofessionals: Paraprofessional staff development is critical to the success of all students. As more students with disabilities are involved in the regular education environment, the staff

working with them should be highly qualified. The SSEAC was informed about the Paraprofessional Guide that was developed and utilized in the Department's training sessions throughout the Commonwealth to assist LEA's staff development. While localities are developing programs to implement NCLB requirements, technical assistance will be vital as these provisions are implemented.

### **C. Family Involvement**

Literacy Level of Materials: Parent involvement is one of the most important variables determining student success. The SSEAC has worked to improve family involvement in children's education by producing a Question and Answer Guide to accompany the *IDEA Procedural Safeguards*. This resource will be made available to parents and school divisions.

Additional information for Families: The SSEAC has provided information to Parent Resource Centers and Local Special Education Advisory Committees (LACs), and has encouraged the DOE to produce guidelines for LACs.

### **D. Continuum of Placement Options and the Least Restrictive Environment**

Technical assistance should continue to be available to improve student achievement through access to learning in general education classrooms. The SSEAC has recommended that the DOE provide additional technical assistance and information to LEAs about how to provide appropriate supports that will maximize student achievement. Concerns in this area remain, as demonstrated by the public comment the SSEAC received from various parts of the state about lack of access to the general education classroom, and how that relates to children's achievement.

We also received some positive public comment concerning children having the opportunity to participate in inclusive settings.

### **E. Virginia Schools for the Deaf and Blind:**

The General Assembly has funded a feasibility study to determine the future of these schools. The SSEAC will continue to be kept informed during the consolidation planning for the two Schools. The SSEAC believes that enhancing parent involvement should become a priority focus of both schools.

### **F. Restraint and Seclusion**

A subcommittee of the SSEAC was formed to review concerns expressed about the use of restraint and seclusion in public school settings. A survey was distributed in order to acquire more information from schools related to policies, procedures, and training on the scope of these issues. The subcommittee has reviewed the results leading to the development of guidelines for local school divisions. Further action will be forthcoming.

Public comment was received from a parent concerning the use of restraints.

## **G. Medicaid**

The SSEAC continues to request the Board of Education to advocate for more Medicaid waiver slots allocated to the state system so that the number of students on the Medicaid Waiver waiting lists can be reduced.

## **H. Secondary Transition**

The Results for Students sub-committee received a report from the DOE concerning projects to address secondary transition services, and will continue to look at how best to prepare students for a future, which prepares them for postsecondary education/training, employment, and independent living.

### **III: Future Issues**

Listed below are three areas that the SSEAC will continue to monitor and offer comments as they continue their work for the families and children of Virginia.

#### **A. Reauthorization of the Individuals with Disabilities Education Act (IDEA)**

Members of the SSEAC are very concerned about the future of special education and provision of services to maximize independence and success for all students. The SSEAC has requested communication with DOE prior to the department providing advice or taking a position on the federal legislation. The SSEAC will be calling special meetings to discuss the proposals reauthorizing IDEA.

#### **B. No Child Left Behind**

The SSEAC will continue to monitor the impact of the No Child Left Behind legislation on students with disabilities in Virginia.

#### **C. Olmstead Plan**

Comments on the proposed plan were provided to the Virginia Department of Mental Health, Mental Retardation and Substance Abuse Services relative to the Supreme Court decision of 1999 (Olmstead v. L.C.) that would affect persons with disabilities in the areas of prevention and transition. Recommendations were made to the Task Force.

Public comment was also received on this issue requesting the State Special Education Advisory Committee to provide comment.

## **Virginia State Special Education Advisory Committee (SSEAC)**

### **Charlene Christopher (Chair)**

200 Maryland Avenue  
Norfolk, VA 23504-1214

### **Elizabeth Vincel (Secretary)**

1905 Queensmill Drive  
Salem, VA 24153

### **J. Stan Boren (Past Chair)**

Saratoga School  
8111 Northumberland Road  
Springfield, VA 22153

### **Eileen Deckard**

141 Poplar Street  
Weber City, VA 24290

### **Emily Dreyfus**

Just Children  
Legal Aid Justice Center  
1000 Preston Avenue  
Charlottesville, VA 22903

### **Stacie Ellis**

214 Woodfield Drive  
Spotsylvania, VA 22553-1860

### **Anne Fischer**

133 Brittany Lane  
Suffolk, VA 23435

### **Heidi Lawyer**

Virginia Board for People with Disabilities  
202 N. 9th Street, 9th Floor  
Richmond, VA 23219

### **J. David Martin**

Division Superintendent  
Fauquier County Public Schools  
320 Hospital Drive, Suite 40  
Warrenton, VA 20186-3037

### **Cindy Mills**

4205 Quince Road  
Portsmouth, VA 23703

**Fannie Page**

Virginia Department of Corrections  
James Monroe Building, 7th Floor  
101 North 14th Street  
Richmond, VA 23219-3678

**Linda Richardson**

935 Crescent Road  
Emporia, VA 23847

**Robert F. Richardson Jr.**

Hanover County Public Schools  
200 Berkley Street  
Ashland, VA 23005-1399

**Shirley G. Ricks**

Manager Child/Family Services MHMRSAS  
P.O. Box 1797  
Richmond, VA 23218

**Carmen Sanchez**

Disabilities Services Planning and Development  
Department of Family Services  
12011 Government Center Parkway, Suite 708  
Fairfax, VA 22035-1104

**Leslie T. Snyder**

1121 Palmerton Drive  
Newport News, VA 23602

**Sharon Bishop Stacey**

Route 4, Box 320-A  
Clinchport, VA 24244

**Kevin Sutherland**

Teacher Education Division  
Virginia Commonwealth University  
Box 842020  
Richmond, VA 23284

**Michael G. Wong**

Harrisonburg Redevelopment and Housing Authority  
P.O. Box 1071  
Harrisonburg, VA 22803

June 2004

## **2003-2004 SSEAC Presentations**

### **July 2003**

Teacher Licensure- Pat Burgess Summary of Proposed Revisions

SOP Annual Plan Stan Boren, Member Past Chair

Committee discussion of IDEA Reauthorization

Top concerns: IEPs, Student Discipline, Personnel Standards + Professional Development

### **October 2003**

VDOE Priorities Review - Pat Abrams

IDEA and NCLB and the impacts on AYP and/or accreditation

Enhanced Scope and Sequence Project - Maureen Hajar

Governor's Education for a Lifetime Plan

Data regarding special education student placement - Paul Raskopf

Trends in Local Improvement Plan - Carol David

State developed system for sharing effective practices that improve student achievement to graduation

2 + 2 in '04 - Dr. Sylinda Gilchrist

How the 'n' of 50 was calculated and determined- Doug Cox and Shelley Loving Ryder (also reviewed their proposal about 'cut scores')

### **January 2004**

Educational Accountability in VA Public Schools and Accreditation and AYP- Dr. Cheryl Magill

Virginia Secondary Transition Outcome Project - T/TAC personnel

Physical Restraint and Seclusion Report - Subcommittee Presentation David Martin

Federal Annual Performance Report January 17 draft of Part B Annual Performance Report - VDOE staff

### **April 2004**

Ombudsman Role in the VDOE- Sandra Ruffin

Safe and Drug Free Schools, Title IV Part A NCLB - Arlene Cundiff

# Board of Education Agenda Item

Item: S

Date: September 22, 2004

**Topic:** Report on the Board of Education's Authority and Responsibility under the Provisions Regarding Sanctions Contained in the No Child Left Behind Act of 2001 (NCLB)

**Presenters:** Ms. Deborah Love-Feild, assistant attorney general, Office of the Attorney General  
Ms. Anne D. Wescott, assistant superintendent for policy and communications

**Telephone:** (804) 225-2403

**E-mail:** [awescott@mail.vak12ed.edu](mailto:awescott@mail.vak12ed.edu)

**Origin:**

☒ Topic presented for information only (no board action required)

☐ Board review required by

☐ State or federal law or regulation

☐ Board of Education regulation

☐ Other: \_\_\_\_\_

☐ Action requested at this meeting

☐ Action requested at future meeting: \_\_\_\_\_

**Previous Review/Action:**

☒ No previous board review/action

☐ Previous review/action

date: \_\_\_\_\_

action: \_\_\_\_\_

**Background Information:** The No Child Left Behind Act of 2001 (NCLB) requires states to establish an accountability system for schools, school divisions, and the state. As a part of the accountability system, states must have sanctions and corrective actions for school divisions that do not make adequate yearly progress (AYP) for two or more consecutive years. The 2004-2005 school year will be the second year that school divisions in Virginia will have been held to AYP requirements and be subject to sanctions or corrective actions.

**Summary of Major Elements:** NCLB lists the corrective actions that may be imposed by states on school divisions that do not make adequate yearly progress for two or more consecutive years (see attached).



**Superintendent's Recommendation:** N/A

**Impact on Resources:** N/A

**Timetable for Further Review/Action:** N/A

## **No Child Left Behind Act of 2001**

**20 U.S.C. 6316(c)(3)**  
**(P.L. 107-110 Sec 1116(c)(3))**

### **(3) IDENTIFICATION OF LOCAL EDUCATIONAL AGENCY FOR IMPROVEMENT.**

A State shall identify for improvement any local educational agency that, for 2 consecutive years, including the period immediately prior to the date of enactment of the No Child Left Behind Act of 2001, failed to make adequate yearly progress as defined in the State's plan under section 111(b)(2).

**20 U.S.C. 6316(c)(10)**  
**(P.L. 107-110 Sec 1116(c)(10))**

### **(10) CORRECTIVE ACTION.**

In order to help students served under this part meet challenging State student academic achievement standards, each State shall implement a system of corrective action in accordance with the following:

- (A) **DEFINITION.**—As used in this paragraph, the term ‘corrective action’ means action, consistent with State law, that—
  - (i) substantially and directly responds to the consistent academic failure that caused the State to take such action and to any underlying staffing, curricular, or other problems in the agency; and
  - (ii) is designed to meet the goal of having all students served under this part achieve at the proficient and advanced student academic achievement levels.
- (B) **GENERAL REQUIREMENTS.**—After providing technical assistance under paragraph (9) and subject to subparagraph (E), the State—
  - (i) may take corrective action at any time with respect to a local educational agency that has been identified under paragraph (3);
  - (ii) shall take corrective action with respect to any local educational agency that fails to make adequate yearly progress, as defined by the State, by the end of the second full school year after the identification of the agency under paragraph (3); and

- (iii) shall continue to provide technical assistance while instituting any corrective action under clause (i) or (ii).
- (C) CERTAIN CORRECTIVE ACTIONS REQUIRED.—In the case of a local educational agency identified for corrective action, the State educational agency shall take at least one of the following corrective actions:
  - (i) Deferring programmatic funds or reducing administrative funds.
  - (ii) Instituting and fully implementing a new curriculum that is based on State and local academic content and achievement standards, including providing appropriate professional development based on scientifically based research for all relevant staff, that offers substantial promise of improving educational achievement for low-achieving students.
  - (iii) Replacing the local educational agency personnel who are relevant to the failure to make adequate yearly progress.
  - (iv) Removing particular schools from the jurisdiction of the local educational agency and establishing alternative arrangements for public governance and supervision of such schools.
  - (v) Appointing, through the State educational agency, a receiver or trustee to administer the affairs of the local educational agency in place of the superintendent and school board.
  - (vi) Abolishing or restructuring the local educational agency.
  - (vii) Authorizing students to transfer from a school operated by the local educational agency to a higher-performing public school operated by another local educational agency in accordance with subsections (b)(1)(E) and (F), and providing to such students transportation (or the costs of transportation) to such schools consistent with subsection (b)(9), in conjunction with carrying out not less than one additional action described under this subparagraph.
- (D) HEARING.—Prior to implementing any corrective action under this paragraph, the State educational agency shall provide notice and a hearing to the affected local educational agency, if State law provides for such notice and hearing. The hearing shall take place not later than 45 days following the decision to implement corrective action.
- (E) NOTICE TO PARENTS.—The State educational agency shall publish, and disseminate to parents and the public, information on any corrective action the State educational agency takes under this paragraph through such means as the Internet, the media, and public agencies.

- (F) DELAY.—Notwithstanding subparagraph (B)(ii), a State educational agency may delay, for a period not to exceed 1 year, implementation of corrective action under this paragraph if the local educational agency makes adequate yearly progress for 1 year or its failure to make adequate yearly progress is due to exceptional or uncontrollable circumstances, such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the local educational agency. No such period shall be taken into account in determining the number of consecutive years of failure to make adequate yearly progress.

**PUBLIC HEARING:**

**PROPOSED REGULATIONS GOVERNING  
SCOLIOSIS SCREENING PROGRAMS**

At this time, the Board of Education will receive public comment regarding the proposed regulations governing scoliosis screening programs. The proposed regulations were approved by the Board of Education at the November 2003 meeting.

Background information is attached.

Speakers will be recognized in the order in which they signed up. Each speaker is limited to three minutes.

## **Proposed Regulations Governing Scoliosis Screening Programs (8 VAC 20-690-10 et seq.)**

### **Background**

The Board of Education scoliosis regulations are required as a result of HB 1834 (Reese), enacted by the 2003 General Assembly and codified in § 22.1-273.1 of the Code of Virginia. The legislation directs the Board of Education to promulgate regulations that require each school board to implement a program of regular scoliosis screenings.

The proposed *Regulations Governing Scoliosis Screening Program for Public Schools* would protect the health and welfare of public school students by identifying students with spinal deformities that may cause back pain and impairment of the body's range of motion and endurance, or impair functions of other parts of the body. The proposed regulations would provide parents with educational information on scoliosis and would make them aware of the importance of early identification and the need for treatment if necessary.

In addition, the law states that pupils in grades five through 10 would not have to be screened if they have been admitted for the first time to a public school and have been tested as part of the comprehensive physical examination required by §22.1-270, or if the parents of such students have indicated that they do not wish their children to participate in such screening. Local school boards are required to develop procedures for parents to indicate their preference that their children not participate in the scoliosis screening.

The Board of Education, on July 23, 2003, authorized the Department of Education staff to proceed with the Notice of Intended Regulatory Action for the promulgation of regulations governing a program of regular scoliosis screenings for students in grades five through 10. A committee consisting of a parent, a pediatric orthopedic surgeon, a chiropractor, a school nurse, a pediatric nurse practitioner, a supervisor of school health services for a local school division, a chairman of a school health advisory board, and Department of Education school health staff drafted the regulations.

The Office of Attorney General approved the proposed regulations on March 18, 2004, and the Governor's Office approved them on June 22, 2004. The Economic Impact Analysis for scoliosis regulations was provided by the Virginia Department of Planning and Budget on May 18, 2004. A Superintendents Informational Memorandum No. 131 that transmitted the "Statement of Administrative Impact and Projected Costs of Implementation" for the proposed regulations was sent to division superintendents on June 25, 2004. The proposed *Regulations Governing Scoliosis Screening Programs* were published in the Virginia Register on Monday, July 26, 2004.

### **Summary**

The purpose of the regulations is to require school divisions to do one of the following:

- Provide information on scoliosis to parents of students in grades five through 10, including a definition of scoliosis, or
- Implement a scoliosis screening program for students in grades five through 10, or

- Implement a scoliosis screening program for students in selected grades five through 10 and provide information on scoliosis to parents of students in grades five through 10 not selected for screening.

The regulations address:

- The screening procedure
- The provision of research-based information on scoliosis to parents
- Training of school personnel and volunteers who may conduct screenings, and
- Procedures for the notification of parents when evidence of scoliosis is detected.

School boards implementing a program of regular scoliosis screening shall provide training for personnel who may conduct the screening. Qualified licensed medical practitioners shall conduct training of school personnel. Practitioners may use various training methods including, but not limited to, in-person training, video instruction, or review of a training manual. The Department of Education will provide training methods and educational materials that school divisions may adopt. There will be minimal financial impact on Virginia Department of Education. There will be a minor fiscal impact on resources in those school divisions currently not providing scoliosis screening or scoliosis educational information to parents.

At the conclusion of the required 60-day public comment period, the proposed final regulations will be presented to the Board for review and adoption.



REGULATIONS FOR SCOLIOSIS SCREENING PROGRAM

**8 VAC 20-690-10. Definitions.**

The following words and terms, when used in this regulation, shall have the following meaning unless the context clearly indicates otherwise:

“Forward Bend Test” means a procedure to assess the possible presence of abnormal spinal curvature.

“Scoliometer” means a device for measuring the amount of abnormal curvature in the spine.

“Scoliosis” means a lateral or sideways curvature of the spine, generally associated with the rotation of the spine and rib cage.

“Scoliosis screening” means a postural screening process of assessment and evaluation used to identify students with spinal deviations at an early stage of development and to refer students for a medical evaluation. Early detection and intervention may prevent further structural deformity and resulting secondary problems.

**8 VAC 20-690-20. Scoliosis program.**

A. Each school board shall implement a scoliosis program that shall consist of the provision of parent educational information on scoliosis for students in grades five through ten or the implementation of a program of regular screening for scoliosis for students in grades five through ten. School boards shall not impose a fee for any scoliosis program implemented.

B. School boards shall not be required to screen students in grades five through ten who have been admitted for the first time to a public school and who have been tested for scoliosis as part of the comprehensive physical examination required by § 22.1-270 of the Code of Virginia or the

## REGULATIONS FOR SCOLIOSIS SCREENING PROGRAM

parents of such students have indicated their preference that their children not participate in scoliosis screening.

C. Each school board shall review and adhere to the federal Family Educational Rights and Privacy Act and the Protection of Pupil Rights Act in the development and implementation of a regular Scoliosis screening program.

**8 VAC 20-690-30. Parent educational information.**

A. School boards implementing a scoliosis program consisting of the provision of parent educational information on scoliosis shall provide such information to the parents of students in grades five through ten within sixty business days after the opening of school each year.

B. Parent educational information on scoliosis shall include but not be limited to (i) a definition of scoliosis, (ii) a description of how scoliosis is identified, (iii) a statement describing why it is important to screen for the condition, (iv) a description of the types of screening procedures, (v) a description of potential treatments for the condition, and (vi) information on where screening may be obtained.

**8 VAC 20-690-40. Regular scoliosis screening.**

A. School boards implementing a scoliosis program of regularly screening students in grades five through ten shall provide written notice to parents a minimum of ten business days prior to screening.

B. The written notice shall contain (i) information indicating when the screening will occur, (ii) the purpose of screening that shall include the parent educational information described in 8

## REGULATIONS FOR SCOLIOSIS SCREENING PROGRAM

VAC 20-690-20, (iii) a procedure for notifying parents of students who are identified as having a possible spinal curvature, and (iv) a procedure for parents to opt out of the screening..

C. School boards implementing a scoliosis program of regular screening shall screen each student in selected grades five through ten a minimum of two times during the six year period except for those students entering the school division for the first time during the tenth grade year who shall be screened once.

D. Parent educational information as required by 8 VAC 20-690-20 shall be provided to parents of students in selected grades five through ten who are not screened.

**8 VAC 20-690-50. Training required for personnel and volunteers.**

A. School boards implementing a scoliosis program of regular screening shall provide training for school personnel and volunteers who may conduct the screening. School boards may seek volunteers from among professional health care providers to provide training, to perform screenings, or both. School boards using volunteers shall comply with all requirements of the Family Educational Rights and Privacy Act and the Protection of Pupil Privacy Act in maintaining the confidentiality of student records.

B. Training of school personnel and volunteers shall be conducted by qualified licensed medical practitioners. Practitioners may use various training methods including, but not limited to, in-person training, video instruction, or review of a training manual.

C. Practitioners shall provide training in medically accepted scoliosis screening procedures including the use of the forward bend test, or use of a Scoliometer, or both to school personnel and volunteers.